CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 1639.

IN THE MATTER OF THE APPLICATION OF YOLO COUNTY CONSOLIDATED WATER COMPANY AND YOLO WATER AND POWER COMPANY FOR AN ORDER AUTHORIZING THE FORMER TO LEASE TO THE LATTER ALL OF ITS PROPERTY.

Application No. 1133.

Decided July 1, 1914.

Application of the Yolo County Consolidated Water Company and the Yolo Water and Power Company, the former to lease to the latter company all of its property for a period of twenty years with an optional extension of fifteen years, granted, a proper rental to be fixed when the Commission shall have established rates for the Yolo Water and Power Company upon its application as proposed by said company.

Arthur C. Huston, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

In this application, the Yolo County Consolidated Water Company asks permission to lease its property to the Yolo Water and Power Company, and the Yolo Water and Power Company joins in the application for permission to execute said lease.

While in this opinion the Commission will mention circumstances connected with applicants other than the lease now prayed for, it will, in its order, pass upon nothing except the matter of the lease.

The financial condition of the Yolo County Consolidated Water Company, as set forth in the application, is as follows:

(*a*) The authorized capital stock of said corporation is one million (1,000,000) dollars.

(*b*) All of said capital stock of said corporation is outstanding.

(*c*) Said corporation has no preferred stock.

(*d*) The only mortgage upon the property of said applicant is that made to the Mercantile Trust Company of San Francisco, dated April 1, 1904, the amount of indebtedness authorized to be secured thereby and the amount of indebtedness actually secured being the sum of two hundred and twenty-five thousand (225,000) dollars.

(*e*) That the number and amount of bonds authorized and issued by the said applicant, together with the date of issue, par value, rate of interest, date of maturity and how secured, is as follows: 225 bonds of $1,000.00 each, issued by Yolo County Consolidated Water Company, a corporation, date of issue April 1, 1904, par

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value $1,000.00 each, rate of interest 5 per cent per annum, date of maturity April 1, 1934, secured by the mortgage described above to the Mercantile Trust Company of San Francisco.

(*f*) There is no other indebtedness.

(*g*) The amount of interest paid during the previous fiscal year was eleven thousand two hundred fifty (11,250) dollars, and the rate was 5 per cent per annum.

(*h*) No dividends have been paid on the capital stock of said corporation during the five fiscal years previous to the filing of this application.

(*i*) A detailed statement of the earnings and expenditures, etc., as required by the rules of procedure of the Commission, is contained in the annual report filed by this corporation with the Commission on the 15th day of March, 1914, for the fiscal year ending December 31, 1913.

The financial condition of the Yolo Water and Power Company is set forth in the application, as follows:

The authorized stock of said company consists of one million (1,000,000) dollars preferred and nine million (9,000,000) dollars common, all of which is issued and outstanding. The terms of preference of said preferred stock is set forth in the application at length to which reference is hereby made.

Certain limitations as to the power of the corporation to issue further stock ranking with or in priority to the aforesaid issue of one million (1,000,000) dollars, or to create any charge except as provided in the terms of preference upon the net profits of the corporation which shall not be subordinate to the rights of the preferred stock, or to reserve a surplus fund which will not be chargeable with the payment of the accrued interest dividends on the preferred stock, are set forth in the application to which reference is hereby made.

The application also recites that the only mortgage on the property of applicant is one dated January 1, 1912, to the Oakland Bank of Savings, in the sum of ten million (10,000,000) dollars.

Bonds under the mortgage to the Oakland Bank of Savings, as described above, have been issued as follows:

Ten $1,000,000 temporary bonds, Nos. T-1 to T-10, inclusive.

One thousand $1,000 temporary bonds, Nos. T-1 to T-1000, inclusive, which cancelled one $1,000,000 temporary bond, No. T-1.

Two thousand $1,000 permanent bonds, Nos. 1 to 2000, inclusive, which cancelled one thousand $1,000 temporary bonds, Nos. T-1 to T-1000, inclusive, and one $1,000,000 temporary bond No. T-2.

Five hundred $1,000 permanent bonds, Nos. 2001 to 2500, inclusive, and five $100,000 temporary bonds Nos T-1001 to T-1005, inclusive, which cancelled one $1,000,000 temporary bond No. T-3.

The applicant alleges there is no other indebtedness. The stock of both the Yolo County Consolidated Water Company and the Yolo Water and Power Company is owned by White & Company of New York, who were contractors during the construction of Yolo Water and

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Power Company, and it developed at the hearing that all of the stock of said companies was deposited with the Oakland Bank of Savings.

I have set forth at this length the financial condition of applicants for the reason that such financial condition was the result of transactions which took place before the effective date of the Public Utilities Act, and for the purpose of emphazing the fact that in passing upon this application to authorize the lease prayed for the Commission in no way passes upon or approves any of the financial transactions of either of these applicants or of the securities issued by them; but, as above stated, confines the order in this application strictly to the question of the lease.

It developed at the hearing that the amount to be paid to the Yolo County Consolidated Water Company by the Yolo Water and Power Company as rental under the lease had not been agreed upon and that applicants desired that the amount of such rental should not be determined at this time, but deferred until the Yolo Water and Power Company applies to this Commission, which it proposes to do in the near future, to have its rates fixed, at which time the Commission will be asked to fix the amount of the rental to be paid to the Yolo County Consolidated Water Company by the Yolo Water and Power Company, the lease to become effective upon the granting of this application and the rent to commence at once, but not to be paid until the Commission shall have fixed the amount of rental at the future hearing of the Yolo Water and Power Company for the fixing of its rates as set forth above.

It was further testified that the leasing of said properties as prayed for in the application will result in a more economical management of the properties and in a more efficient and satisfactory distribution of water for irrigation and domestic purposes.

With the reservation above set forth confining the order of the Commission under this application strictly to the leasing of the property of the Yolo County Consolidated Water Company to the Yolo Water and Power Company for a period of twenty years, from the first day of January, 1914, the Yolo Water and Power Company to have the option to renew and extend said lease for an additional term of fifteen years at any time during the period of twenty years, during which the lease is to run, except that such option must be exercised not later than one year prior to the expiration of the lease, I see no reason why the lease should not be authorized.

I further see no reason why the amount of the rental to be paid should not be held in abeyance to be decided later by the Commission or by the parties in interest and approved by the Commission at the time the application of the Yolo Water and Power Company is heard, which application it was testified at the hearing will be filed within a short time.

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I recommend the following order:

ORDER.

Yolo County Consolidated Water Company and Yolo Water and Power Company having applied to the Commission for authority, the former to lease all of its property to the latter, and a hearing having been duly held and the matters and things pertaining to said application considered, and it appearing that increased, efficient, and economical management will result from the authorization of such lease,

It is hereby ordered that the Yolo County Consolidated Water Company and Yolo Water and Power Company be and they are hereby authorized to enter into a contract of lease by the terms of which the Yolo County Consolidated Water Company leases its property to the Yolo Water and Power Company for the term and upon the conditions set forth in the lease attached to the application herein, and referred to in the opinion preceding this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of July, 1914.

DECISION NO. 1640.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE BONDS AND FOR APPROVAL OF A CONTRACT.

Application No. 996.

Decided July 1, 1914.

Wilson & Wilson, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

ORDER OF DISMISSAL.

The above entitled application having come on regularly for hearing, and applicant having requested that the same be dismissed as regards the request for authority to issue bonds, and the Commission being of the opinion that its formal approval is not necessary to the contract set forth in the application,

It is hereby ordered that the above entitled application be and the same is hereby dismissed without prejudice.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of July, 1914.

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Decisions Nos. 1641, 1642, 1643, and 1644, grade crossings; not printed. See end of volume.

DECISION No. 1645.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION AND ORO DEVELOPMENT COMPANY FOR PERMISSION TO SELL, TRANSFER AND DISPOSE OF ONE THOUSAND FIRST MORTGAGE, SINKING FUND BONDS AND CONFIRM THE SALES OF SIX HUNDRED AND EIGHTY-SIX OF THE BONDS OF SAID CORPORATION.

Application No. 609.

Decided July 2, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Oro Electric Corporation and Oro Development Company having, on June 30, 1914, made written request to this Commission that the above entitled application be dismissed,

It is hereby ordered that the above entitled application be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 2d day of July, 1914.

DECISION No. 1646.

IN THE MATTER OF THE APPLICATION OF R. B. YOUNG FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AND OPERATE AN ELECTRIC PLANT IN PORTOLA AND VICINITY, PLUMAS COUNTY, CALIFORNIA.

Application No. 1183.

Decided July 3, 1914.

Applicant granted a certificate of public convenience and necessity to exercise franchise rights, authorizing the construction and operation of an electric generating and distributing system in the town of Portola and vicinity.

REPORT OF THE COMMISSION.

Whereas R. B. Young has filed with this Commission his application asking for a certificate that the present and future public convenience and necessity require the exercise by Young, his successors and assigns, of the rights and privileges granted by the board of supervisors of Plumas County, by Ordinance No. 180, adopted on May 6, 1914, a copy of which ordinance is attached to the petition herein, and to construct and operate an electric system thereunder; and it appearing that Young

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desires to operate in the unincorporated town of Portola, in Plumas County, California, and easterly thereof to and including Beckwith, and westerly thereof to and including Clio, and that no other electric corporation is at present operating in this portion of Plumas County, and that this is not a case in which a public hearing is necessary,

It is hereby declared that the present and future public convenience and necessity require and will require the exercise by R. B. Young, his successors and assigns, of the rights and privileges granted by Ordinance No. 180 of the board of supervisors of Plumas County, adopted on May 6, 1914, and the construction and operation of a system for the generation, transmission, and distribution of electric energy thereunder, but only in that portion of Plumas County which consists of the unincorporated town of Portola and the territory east thereof to and including Beckwith, and the territory west thereof to and including Clio.

Dated at San Francisco, California, this 3d day of July, 1914.

DECISION No. 1647.

IN THE MATTER OF THE APPLICATION OF ROUND VALLEY WATER COMPANY FOR AN ORDER AUTHORIZING THE LEASE OF ITS ENTIRE PROPERTY TO PLUMAS LIGHT AND POWER COMPANY, FORMERLY KNOWN AS INDIAN VALLEY ELECTRIC LIGHT AND POWER COMPANY.

Application No. 1217.

IN THE MATTER OF THE APPLICATION OF PLUMAS LIGHT AND POWER COMPANY, FORMERLY KNOWN AS INDIAN VALLEY ELECTRIC LIGHT AND POWER COMPANY, TO LEASE A PORTION OF ITS PROPERTY TO CLARA BIDWELL.

Application No. 1218.

Decided July 3, 1914.

Round Valley Water Company authorized to lease its entire water system to the Plumas Light and Power Company and the latter company authorized to lease a certain water right to Clara Bidwell.

REPORT OF THE COMMISSION.

Whereas, Round Valley Water Company has filed with the Railroad Commission its petition authorizing applicant to lease its entire property to Indian Valley Electric Light and Power Company, now known as Plumas Light and Power Company, on the terms specified in the indenture of lease attached to the petition in Application No. 1217, and marked Exhibit "A"; and whereas Plumas Light and Power Company,

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formerly known as Indian Valley Electric Light and Power Company, has filed with the Railroad Commission its petition for an order authorizing the conveyance to Clara Bidwell of a certain water right, known as the Hudson water right, and right of way in connection therewith, upon the terms specified in indenture of lease attached to the petition in Application No. 1218, and marked Exhibit "A" therein; and whereas it appears to the Railroad Commission that these two leases are part of a transaction by which the water stored or to be stored in the reservoir of Round Valley Water Company, or a part thereof, is to be utilized for the purpose of developing hydroelectric energy to be distributed by Plumas Light and Power Company to the inhabitants of the Indian Valley, in Plumas County and the territory adjacent thereto, and that the consummation of this transaction will result in a better service and at lower rates than those which now obtain, and that the public convenience and necessity will be subserved thereby,

It is hereby ordered that each of said applications be and the same is hereby granted, subject to the following conditions:

1. In passing upon these applications, the Railroad Commission does not assume to pass upon the question of the title to the waters stored or to be stored in Round Valley Water Company's reservoir.

2. In passing upon said applications, the Railroad Commission does not necessarily undertake to appraise the property leased by Round Valley Water Company as provided in the lease from Round Valley Water Company to Indian Valley Electric Light and Power Company.

3. The Railroad Commission will not be bound by the provision in the lease from Indian Valley Electric Light and Power Company to Clara Bidwell, providing that the lessor agrees not to sell water for domestic purposes in the town of Greenville, or the territory adjacent thereto, as long as Clara Bidwell is able to supply the same.

4. The Railroad Commission reserves the right to make such alterations or changes in said leases, from time to time, as the public convenience or necessity may require.

Dated at San Francisco, California, this 3d day of July, 1914.

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DECISION NO. 1648.

RIVERSIDE PORTLAND CEMENT COMPANY

vs.

SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY ET AL.

Case No. 539.

Decided July 3, 1914.

Complainants alleging that a certain witness of defendants was called out of order at a prior hearing in the above entitled matter and that they had no opportunity to cross-examine said witness, petition the Commission to reopen the case for further hearing.

Held, Petition granted and date set for rehearing.

REPORT OF THE COMMISSION.

ORDER UPON MOTION TO OPEN CASE FOR FURTHER TESTIMONY.

The testimony in the above entitled case was regularly taken at different times and the case submitted. The complainant now files a verified application asking that the case be reopened for the purpose of taking further testimony, and sets forth as the grounds upon which such application is based the following:

That the last witness called at the hearing was Mr. James A. Keller, who was called by the carriers defendant, and who testified as to the cost of transporting cement from the factory of the Pacific Portland Cement Company at Cement, California, to Suisun, and thence by water from Suisun to San Francisco. Said witness was called out of order, and after complainant's testimony in rebuttal had been fully presented. Complainant had no opportunity to examine into the facts testified to by this witness, and was therefore unable at the time of the closing of the taking of testimony to present any evidence in rebuttal of the testimony of said witness.

That since the closing of said case, complainant has investigated the subject-matter of the testimony of the said witness, and finds and so states that "said witness is mistaken in his testimony in many important particulars thereof, all of which complainant is prepared to prove."

In view of the above, and in view of the fact that the Commission desires all of the light which it can possibly receive in order that its decision may do justice to the litigants in this case,

It is hereby ordered that this Case No. 539 be reopened, and that complainant be permitted to submit further testimony in rebuttal of the testimony of Mr. Keller, heretofore offered in this case; and

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It is further ordered that the hearing herein ordered be set down for August 31st at 10 o'clock a. m., in the city of San Francisco.

The above order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of July, 1914.

Decision No. 1649.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 808.

Decided July 3, 1914.

Supplemental order modifying original order in the above entitled proceeding so as to permit applicant to execute a trust deed authorizing the issue of $25,000,000.00 of bonds; to sell the bonds previously authorized at not less than 85 in lieu of 80, and the stock at not less than 85 in lieu of par, as formerly directed.

Report of the Commission.

SUPPLEMENTAL ORDER.

Application having been made by San Diego and Arizona Railway Company for a modification of the order made herein on the 9th day of February, 1914, and it appearing to the Commission that said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that the order heretofore made herein, dated February 9, 1914, is hereby amended in the following particulars:

San Diego and Arizona Railway Company is authorized to execute a trust deed which provides for the issuance of $25,000,000.00 face value of bonds instead of $15,000,000.00, as was provided in said order. And said company shall sell the $10,000,000.00 face value of said bonds heretofore authorized to be issued for not less than 85 per cent of their face value, and accrued interest, instead of 80 per cent as provided in said order. And said company shall sell the $3,000,000.00 par value of its capital stock at not less than 85 per cent of par value instead of par value as provided in said order.

In all other respects than those just above mentioned said order shall in all particulars remain in full force and effect.

Dated at San Francisco, California, this 3d day of July, 1914.

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DECISION NO. 1650.

IN THE MATTER OF THE APPLICATION OF THE FRESNO INTERURBAN RAILWAY COMPANY FOR AUTHORITY TO ISSUE STOCKS AND BONDS.

Application No. 1084.

Decided July 6, 1911.

Applicant having complied with all the requirements incorporated in the original order in the above entitled proceeding, with the exception of obtaining a franchise through the town of Clovis, which franchise it is directed to obtain before July 20, 1914, it is therefore authorized to issue $60,000 00 par value of stock and $120,000.00 face value of bonds, proceeds to be used in the construction of its line of railway as previously outlined.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SUPPLEMENTAL ORDER.

Whereas, on the 4th day of June, 1914, this Commission, after a hearing duly had upon the application of the Fresno Interurban Railway Company for authority to issue stocks and bonds, granted said Fresno Interurban Railway Company permission to issue 600 shares of capital stock of the par value of one hundred (100) dollars per share, and its first mortgage, 6 per cent, ten year bonds of the face value of one hundred twenty thousand (120,000) dollars, under its mortgage and deed of trust to the Mercantile Trust Company of San Francisco as trustee, the proceeds to be used in the construction of its line of railway from Fresno to Clovis, California, providing, however, that such stocks and bonds could only be issued under a supplemental order after applicant had complied with certain provisions therein; and whereas it now appears that applicant has complied with all of such provisions except one, to wit, that of having obtained a franchise to construct its lines through the corporate limits of Clovis, and with this exception has provided for a specific performance previous to the issuance of the securities; and whereas applicant has represented to the Commission that it has procured from Mr. F. S. Granger an option to purchase a certain franchise to construct an electric railroad through the town of Clovis, heretofore awarded to said Granger by said town of Clovis, said option expiring on the 20th day of July, 1914, and that applicant has still another opportunity of procuring a similar franchise and that applicant will exercise either the option to take over the Granger franchise or will procure the other franchise mentioned above, before the 20th day of July, 1914,

It is hereby ordered that Fresno Interurban Railway Company be and it is hereby authorized to issue 600 shares of its capital stock of the par value of one hundred (100) dollars per share and bonds of the

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face value of one hundred twenty thousand (120,000) dollars, said bonds to be issued under its revised mortgage and deed of trust to the Merchantile Trust Company of San Francisco, as trustee, which revised mortgage and deed of trust provides for an authorized issue of two hundred and fifty thousand (250,000) dollars, and a copy of which was filed with the Commission July 1, 1914.

The conditions providing for a specific performance of the requirements set forth by the Commission in its original order, except as to the franchise in Clovis, as herein set forth, are hereby made a part of this order.

This supplementary order is issued with the understanding that before July 20, 1914, applicant will have procured a franchise through the town of Clovis and that if such franchise has not been procured the Commission may find it necessary to revoke said order.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of July, 1914.

DECISION NO. 1651.

THE CITY OF LOS ANGELES

vs.

SOUTHERN CALIFORNIA GAS COMPANY, LOS ANGELES GAS AND ELECTRIC CORPORATION, SOUTHERN CALIFORNIA EDISON COMPANY, AND ECONOMIC GAS COMPANY.

Case No. 594.

Decided July 6, 1914.

Complainant, City of Los Angeles, petitions the Commission to compel defendant gas companies, serving gas within the limits of said city, to resume the distribution of natural gas or "mixed gas," and also to compel the Southern California Gas Company, controlling the natural gas supply, to deliver to certain distributing companies such quantities as they may desire to purchase.

Held, That the city charter of complainant gives it the power "to prescribe the character and quality of any public utility service." That therefore this Commission can not assume such jurisdiction, which portion of the complaint is therefore dismissed.

Held, That as the point of delivery of natural gas in wholesale quantities by the Southern California Gas Company is situated in unincorporated territory, this Commission has jurisdiction to compel such delivery. That a utility of this nature can not arbitrarily discontinue service unless compelling reasons for such discontinuance can be shown.

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Held, Southern California Gas Company directed to deliver natural gas under the rates prescribed by this Commission to such companies desiring such service within twenty-four hours after demand.

Albert Lee Stephens, city attorney, for City of Los Angeles.

Carl Taylor and *O'Melveny, Stevens & Millikin*, for Southern California Gas Company.

William A. Cheney, Herbert J. Goudge, and *Paul Overton*, for Los Angeles Gas and Electric Corporation.

H. H. Trowbridge, for Southern California Edison Company.

L. P. Lowe, for Economic Gas Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an action to compel the defendant gas companies to resume the supply of natural gas to the inhabitants of Los Angeles. A public hearing was held in the city of Los Angeles on June 23, 1914. Ten days were granted to all parties for the filing of briefs. This time has now expired and the case is ready for decision.

Between July 17, 1913, and February 20, 1914, large amounts of so-called "mixed gas," consisting of varying proportions of artificial gas and natural gas, were sold by Los Angeles Gas and Electric Corporation, Southern California Gas Company and Economic Gas Company to their customers in the city of Los Angeles. Southern California Edison Company also sold smaller amounts of "mixed gas" which it secured from Long Beach Consolidated Gas Company, which company in turn secured it from Southern California Gas Company. The natural gas has all been controlled by Southern California Gas Company. Since February 20, 1914, the condition, in so far as Los Angeles is concerned, has been as follows: Southern California Edison Company has received no natural gas or "mixed gas" and has sold none; Economic Gas Company has received none, though it has demanded from Southern California Gas Company that delivery be made under the contract between the two companies and has expressed a desire to sell natural gas in Los Angeles; Los Angeles Gas and Electric Corporation has taken from Southern California Gas Company, at the terminus of the Midway main at West Glendale, 134,218,113 cubic feet of natural gas in March, 196,932,880 cubic feet in April, and 222,250,000 cubic feet in May, with an amount not testified to for June, but has used the entire amount in its own gas works and electric works, and has distributed none thereof to its customers; and Southern California Gas Company has used natural gas in its gas works in Los Angeles, but has distributed none to any of its customers in Los Angeles except some two hundred living in the "Shoestring District," who have been served with straight natural gas from the main which leads

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to Redondo. The companies assign different reasons for their failure to continue to supply "mixed gas" to their customers, which reasons will hereinafter be considered in so far as necessary.

At the outset, we are confronted by a question of jurisdiction as between this Commission and the city of Los Angeles. The city, while asking this Commission to order the defendants to supply natural gas in Los Angeles, nevertheless urges that the Commission has no jurisdiction to make such order and asks the Commission to rule on the question. All parties agree that if power in the premises vested in the city of Los Angeles on March 23, 1912, the effective date of the Public Utilities Act, it is still so vested, but that otherwise this Commission has jurisdiction. For principles applicable to questions of this kind, see *Pratt* vs. *Spring Valley Water Company,* decided by this Commission on May 21, 1914.

On March 25, 1911 (Statutes 1911, p. 2051), subdivision 30 of section 2 of article I of the charter of Los Angeles was amended so as to read as follows:

> "The city of Los Angeles, in addition to any other powers now held by, or that may hereafter be granted to it under the constitution or laws of the state, shall have the right and power:
>
> (30) To fix and determine the rates or compensation to be collected by any person, firm or corporation, for water, gas, electric current, refrigeration, heat, light, power, telephones, telephone service or connections or the conveyance of passengers or freight, by means of street railway cars, hacks, cabs, or other cars or vehicles for hire, or for the products of, or service by, any other public utility operated or conducted within the city limits; and to prescribe the character and quality of any public utility service."
>
> "To regulate, subject to all the provisions of the constitution of the State of California, the construction and operation of railroads, interurban railroads, street railways, or other means of transportation, conduits, waterworks, and works or plants for the production, transmission or distribution of gas, electricity, heat, refrigeration or power, and the works or plants of any other public service utility."

I desire to draw attention particularly to the fact that the city of Los Angeles was given power "to prescribe the character and quality of any public utility service" and "to regulate the construction and operation of works or plants for the production, transmission or distribution of gas." Whether the defendants shall continue to supply "mixed gas" or whether they shall supply straight natural gas is, in my opinion, clearly a question of service over which the city of Los Angeles, under its charter, has jurisdiction. This Commission accordingly has no jurisdiction to compel any of the defendants to deliver natural gas in Los Angeles. That power vests solely in the

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city of Los Angeles or in the courts. In so far as the complaint asks this relief, it must be dismissed.

I shall now direct my attention to the remaining portion of the complaint, in which this Commission is asked to order Southern California Gas Company to resume the delivery of natural gas to Los Angeles Gas and Electric Corporation and Economic Gas Company. The contract of Southern California Gas Company with each of these companies specifies that the point of delivery of the natural gas shall be in West Glendale. As this point is in unincorporated territory, this Commission has jurisdiction over the service.

There is no question that Southern California Gas Company is a public utility, or that it has held itself out as willing to sell natural gas to any one who would buy it at the established rates. The company filed with this Commission its contracts for the sale of natural gas to a number of other gas companies, and asked for and received a modification of this Commission's order establishing the rate at which the company might sell its commodity at the West Glendale terminus of the Midway pipe line. The company has held itself out as ready and willing to supply natural gas to Los Angeles Gas and Electric Corporation and Economic Gas Company, as well as other gas companies not involved in this case, and it is the company's duty as a public utility to continue that service, unless some compelling reason to the contrary is shown. The only defense stated at the hearing was that the city of Los Angeles had established a rate for natural gas and "mixed gas" so low as to be confiscatory. This defense, while bearing on the service of the company to its customers in Los Angeles, does not in the slightest degree apply to the company's service to Los Angeles Gas and Electric Corporation and Economic Gas Company. This service has been rendered at a point outside the limits of Los Angeles and at a rate established by the Commission and not by the city of Los Angeles.

The general manager of the Southern California Gas Company testified that while only six to nine million cubic feet per day of natural gas are now being delivered at the West Glendale terminus, twenty million cubic feet per day are available in the fields. He also testified that Southern California Gas Company has completed its compressor station in the fields, and that after July 1, 1914, on which day he expected the present repairs to the Midway line to be completed, he expected the company would be able to deliver between sixteen and seventeen million cubic feet of natural gas per day. The company accordingly can not make the excuse that it does not have any excess natural gas.

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The remarkable spectacle is presented here of the Southern California Gas Company—a company heavily involved in the natural gas enterprise—refusing to sell natural gas to a company ready and anxious to buy at the rates established by this Commission, even though the company must be seriously crippled financially unless it sells a very much larger quantity of natural gas than the restricted amount which it is now delivering. The affiliated Midway Gas Company, the owner of the pipe line from the fields, must inevitably go bankrupt unless more natural gas is sold. This is clearly a case, if ever one has arisen, in which a utility's own financial condition—to say nothing of its contract obligations—should have led it to perform its legal duty as a public utility. This company has had great troubles lately, and I do not desire to seem harsh in my judgment. I wish merely to point out that the order which will be made in this case will be distinctly to the company's own advantage in restoring a source of revenue from which the company, in apparent blindness to its own interests, has shut itself off.

The Economic Gas Company is ready, willing and anxious to take natural gas from Southern California Gas Company under the terms of the existing contract, and to pay the rates established by this Commission, concerning which rates there is no question in this proceeding. Southern California Gas Company's duty under its contract and under its obligation as a public utility is to deliver the gas. A like duty is owed to Los Angeles Gas and Electric Corporation, if this corporation asks for the gas. If Los Angeles Gas and Electric Corporation refuses to take the gas for distribution to its customers in Los Angeles, this Commission can not compel Southern California Gas Company to thrust its gas upon the other company. I desire, however, to point out that if Economic Gas Company supplies natural gas in Los Angeles and Los Angeles Gas and Electric Corporation and Southern California Gas Company do not follow suit, the Economic Gas Company, by reason of the much superior quality of the natural gas, is likely to secure all the business as to which there may be competition between these companies. Thus, while this Commission has no jurisdiction to accord the complete relief asked by the city of Los Angeles, the indirect effect of its order may be to bring about the result desired by the city.

The delivery of natural gas in Los Angeles is a matter of distinct public benefit, due to the superior quality of this gas. The men who put their brains and their money into this enterprise, and who in doing so have taken risks far out of the ordinary, deserve well of Los Angeles. This is clearly a case in which the public interest, the utility's contract duty, the utility's legal duty as a utility, and the utility's own financial welfare all concur in the same conclusion.

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I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the time allowed for the filing of briefs having expired, and the case being ready for decision,

It is hereby ordered that Southern California Gas Company be and the same is hereby ordered, within twenty-four hours after demand from Los Angeles Gas and Electric Corporation or Economic Gas Company, or both, to supply natural gas to applicant, under the terms of the existing contracts or such modifications as may, from time to time, be agreed upon, at the rates heretofore established by the Railroad Commission.

It is further ordered that in other respects the complaint herein be dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of July, 1914.

Decisions Nos. 1652 and 1653, grade crossings; not printed. See end of volume.

DECISION NO. 1654.

IN THE MATTER OF THE APPLICATION OF MARIN WATER AND POWER COMPANY FOR PERMISSION TO CHARGE AN AMOUNT FOR WATER BEYOND THE ESTABLISHED RATE IN DISTRICT OTHER THAN INCORPORATED TOWNS.

Application No. 1223.

Decided July 6, 1914.

REPORT OF THE COMMISSION.

Whereas, it appears from the petition on file herein that Marin Water and Power Company has been charging the Department of Commerce and Labor 30 cents per thousand gallons for water furnished to said Department of Commerce and Labor, and that petitioner alleges that said charge of 30 cents per thousand gallons does not provide for the maintenance of a certain wharf constructed by Marin Water and Power Company in connection with its service to said Department of Commerce and Labor, and that the parties have agreed upon an increase in said rates from 30 cents to 40 cents per thousand gallons, whereof 30 cents is to be paid for the water and 10 cents for the establishment of a fund for wharf maintenance,

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It is hereby ordered that, as the parties have agreed to this increase in the rate, the establishment of the proposed rate be and the same is hereby authorized on condition that this authorization shall not be taken to establish the rate herein authorized as being necessarily a fair and reasonable rate.

Dated at San Francisco, California, this 6th day of July, 1914.

DECISION NO. 1655.

TOWN OF ANTIOCH

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 400.

Decided July 6, 1914.

Complainant alleging that rates of respondent for electric energy supplied consumers in the town of Antioch are unjust and exorbitant, petitions the Commission to establish just and reasonable rates for the different classes of service.

Held, After a thorough analysis of the various elements entering into the basis upon which equitable rates may be established and a thorough research into cost of producing and distributing electric energy, which cost includes the establishment of proper amounts covering overhead expenditures, depreciation annuity, development cost, etc., and basing its order on the conclusions reached therein, just and reasonable rates are prescribed. These rates include a top rate of 7 cents per kilowatt hour for first 20 kilowatt hours per month with a minimum of $1.00, for general lighting purposes; 3¾ cents per kilowatt hour for street lighting purposes; 7 cents per kilowatt hour for first 50 kilowatt hours per horsepower per month and graduating to 1 cent for over 1,000 kilowatt hours per horsepower per month for power purposes, with a minimum of $1.00 per horsepower per month up to 10 horsepower and 75 cents per horsepower per month for all over 10 horsepower; rates to become effective within twenty days.

Held, That in establishing the rate to be charged for electric energy sold in Antioch, the Commission will divide the cost into two parts, one being the cost of electric energy delivered at the gates of Antioch and the other the cost of local distribution. These costs are separately determined.

Held, After review of various authorities bearing upon the subject of reproduction value as a basis of return, that there is no foundation for the claim that the Commission must confine itself to the estimated reproduction value new; that if a utility has been kept up to a 100 per cent efficiency and a proper depreciation fund maintained, and the estimate does not differ materially from the actual cost, such a basis will have considerable weight, but if the utility has not maintained its system in first-class condition, paying out in dividends money that should have been used for this purpose, a rate based solely upon the cost to reproduce such system new would be extremely unfair to the consumers. Likewise, if such property originally cost an amount, honestly and wisely expended, considerably in excess of what it would now cost to reproduce it, the establishment of a rate upon estimated reproduction cost would be equally unfair to the utility. It is unfair to base a return entirely upon a depreciated reproduction value, such depreciation being computed from the average age of the component parts of the system, which, though in use for several years, are still equal to 100 per cent efficiency.

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Held, That though the Commission is not committed to any one theory in determining the fair value of a utility for rate-fixing purposes, and will consider all the elements suggested by the Supreme Court of the United States, giving to each element its fair weight, considerable weight will be given to the money honestly and wisely invested in the property and in building up the business.

Held, As previously determined, the Commission will consider "going value" or "development cost" when such items are not offset by other equitable considerations, as appear in the present case, but only little weight will be given to hypothetical estimates when the actual expenditures are available.

Held, That a utility has a right to look to its consumers for the establishment of a proper depreciation fund; that the annual amount to be set aside for such fund should be based upon the average natural life of the different classes of material, with an allowance for salvage, and likewise an allowance for obsolescence and inadequacy; and that the interest on the depreciation fund should be retained therein and not diverted to other channels.

Held, After a thorough analysis of defendant's construction costs, that 12 per cent is a reasonable allowance for overhead expenditures on the facts of this case.

Held, That a rate of return of 8 per cent is amply sufficient to enable defendant to secure the capital which it needs for construction purposes, that it will yield a liberal margin over the cost of money and that it is a fair rate of return to allow in this case.

Concurring opinion of Commissioner Eshleman:

While generally concurring in the opinion as expressed by Commissioner Thelen, I do not agree upon the doctrine of agency suggested therein as one reason why the original cost should be given great weight.

That though a governmental agency has the power to impose conditions in advance on any business requiring governmental sanction to be carried on, and on the acceptance of such conditions depends their right to do business; such governmental agency can not impose added conditions upon such a concern already sanctioned to do business, which has assumed all obligations required by law at the time of the initiation of its enterprise, excepting those conditions authorized under the police power of the state; that the people should impose conditions at the time of granting privileges and not wait, as has previously been the case, with the expectation of effecting such impositions at a later date, which action is the only method of escape from the payment of rates on public gifts and excessive unearned increment.

That value, as that term is used in rate fixing inquiries, is entirely foreign to value as a commercial term, the latter being based entirely on the returns and the former found for the purposes of establishing a return; that value for rate-fixing purposes can not be fixed by rules of general application, and that no one condition can be controlling in determining the fair amount on which an earning shall be allowed.

B. D. M. Greene, for Complainant.

Charles P. Cutler, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

The issue in this case is the determination of fair and reasonable rates to be charged by defendant for electric energy supplied to the town of Antioch and its inhabitants.

The complaint alleges, in effect, that the town of Antioch has voted to confer upon the Railroad Commission its powers of control over

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the defendant public utility; that the rates charged by defendant for electric energy supplied to the inhabitants of the town of Antioch for residence and commercial lighting are as follows:

For residence lighting:

First 30 kilowatt hours per month	8c	per kilowatt hour.
Next 70 kilowatt hours per month	7c	per kilowatt hour.
Next 100 kilowatt hours per month	6c	per kilowatt hour.
Next 200 kilowatt hours per month	5c	per kilowatt hour.

For commercial lighting:

First 150 kilowatt hours per month	6c	per kilowatt hour.
Next 300 kilowatt hours per month	5c	per kilowatt hour.
Next 600 kilowatt hours per month	4c	per kilowatt hour.
All over 1,050 kilowatt hours per month	3c	per kilowatt hour.

Minimum charge, $1.00 per meter.

That said rates are high and exorbitant, and that the service is not reasonably worth the price charged by the defendant; that complainant has been unable to arrive at a satisfactory agreement with defendant with reference to the rate to be charged by defendant for lighting the public streets of Antioch; that defendant has offered to furnish electricity to complainant for said purpose at the rate of $1.45 per month for each 40 candle-power series tungsten lamp and $3.50 per month for each 200 candle-power series tungsten lamp; that complainant deemed said rate high and exorbitant and refused to enter into an agreement with defendant at said rate; that at the present time defendant is charging complainant the flat sum of $128.00 per month for lighting the public streets of Antioch; and that complainant believes that said charge of $128.00 per month is unfair and unreasonable. The complainant asks that this Commission establish the rate at which the defendant may sell electric energy to the town of Antioch and to the inhabitants thereof.

The answer denies all the material allegations of the complaint and alleges that the rates charged by defendant for lighting the public streets of Antioch, and also for service to the inhabitants thereof, are fair and reasonable. The defendant accordingly asks that the complaint be dismissed.

Public hearings in this case were held in San Francisco on August 6 and November 28, 1913, and on January 6, 7, 27, 28 and March 9, 10 and 11, 1914.

The delay between January 28 and March 9, 1914, was caused by the fact that the committee of engineers who were working on the question of the value of the water rights of the defendant had not finished their report. This report was completed prior to the submission of this case, but the defendant chose not to present it, and stipulated that if this Commission should make no allowance for the value of water rights in this case, the defendant would raise no objection to such action.

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This case has involved a tremendous amount of labor, both on the part of the Commission and its experts and of the defendant. It has been necessary to investigate defendant's entire hydroelectric system, extending from the crest of the Sierras to the Pacific Ocean, and also that portion of its plant which is engaged in the production and transmission of electric energy produced by steam, as well as the local distributing system in the town of Antioch. The extent of the inquiry is shown by the fact that 62 exhibits have been filed by the defendant, containing information requested by the Commission and its experts, as well as evidence presented by the defendant on its own behalf. These exhibits contain over 600 pages of statistical information. The case for the defendant has been fully and ably presented by its counsel.

After the submission of this case, the defendant filed a brief covering questions both of fact and of law involved in this case. Before considering the issues of fact herein, it will be necessary to consider the fundamental principles involved in this inquiry. These principles will be considered under the following heads:

(1) Basis of return;
(2) Going concern value;
(3) Depreciation reserve;
(4) Rate of return.

1. Basis of Return.

The defendant, in its brief, makes the direct claim that this Commission must use as the basis of return the reproduction value new of defendant's system, plus an allowance for so-called going concern value. The matter of going concern value will be considered later in this opinion. I desire now to give consideration to defendant's claim that this Commission, under the authorities, is bound to give a return on the cost of reproducing defendant's system new, and that this is the only basis to which this Commission can give consideration.

That cases may arise in which it would be fair and equitable to give to a utility a return based on the cost of reproducing its property new is undoubtedly true. It may well be urged that where the cost of producing the property new is approximately the same as the investment, and the utility has done its full duty in keeping its property up to 100 per cent efficiency and has established a proper depreciation fund, the utility may justly claim a return on an estimate of reproduction new.

The claim, however, that rate fixing authorities must give a return on the estimated cost of reproduction new, without consideration of any other basis, seems to me to be without warrant both in common sense and on authority. It will at once occur to a student of public utility problems that if a plant has been permitted to run down below an efficiency of 100 per cent, it may be most unfair to the consumer

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to allow a return based on the estimated cost of reproducing the property new. If the stockholders take out in the shape of dividends moneys which should be used to keep up the property, they certainly have no right thereafter to claim a return on the basis of reproducing the property new. Likewise, the same result may well follow in cases in which, while the service rendered may for the time be up to standard, the plant has been permitted to deteriorate in such a way that proper repairs and replacements have not been made. A simple illustration will suffice to make this point clear. A water company's mains may have been permitted to wear out, and still they may not be leaking to-day, so that it may well be claimed that the company is furnishing 100 per cent service. To-morrow the pipes may all start leaking, so that the system becomes almost valueless for the transmission and delivery of water. It is obviously ridiculous to say that if the rates were being established to-day, it would be necessary to accord the utility a return on 100 per cent reproduction value new. A contrary conclusion would result in the temptation on the part of the stockholders for the time being to take out all the profits in the shape of dividends and to fail to make the necessary repairs and replacements.

A more fundamental objection to defendant's position is that the reproduction value new theory has no logical or necessary connection with the relationship between a utility and its customers, and that it represents a basis of return which is largely unscientific and fortuitous. The relationship between a utility and its customers was expressed by Mr. Justice Harlan, in *Smythe* vs. *Ames,* 169 U. S. 466, 544, as follows:

> "A railroad is a public highway, and none the less so because constructed and maintained through the agency of a corporation deriving its existence and powers from the state. Such a corporation was created for public purposes. It performs a function of the state."

The same thought is expressed by Judge Van Fleet, in *San Diego Water Company* vs. *San Diego,* 118 Cal. 556, 570, as follows:

> "As we have said, it is not the water or the distributing works which the company may be said to own, and the value of which is to be ascertained. They were acquired and contributed for the use of the public; the public may be said to be the real owner, and the company only the agent of the public to administer their use."

The thought expressed by Mr. Justice Harlan and Judge Van Fleet is, that in many respects the relationship between a utility and its consumers may be compared to that existing between principal and agent. While there are, of course, respects in which this analogy will not hold, I think that we may safely look to this relationship as supplying in a large percentage of rate-fixing cases one of the most important bases for a return on public utility property, namely, the investment or the

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original cost, plus the cost of additions and betterments. When weight is given to this basis, it will be apparent that a public utility is entitled to a reasonable return upon such money as it has honestly and wisely expended for the public, but that it should not be allowed a return on money which it has expended dishonestly or without a fair degree of wisdom.

The ultimate question is, of course, always what is fair and just and equitable to be done by the public authority as between the utility and its patrons. If a utility, in pursuance of its duty to the public, has expended money honestly and with a fair degree of wisdom, and it thereafter becomes possible to acquire more cheaply property which it has purchased in the agency, or to secure at a lesser expense labor or material used therein, the utility should not generally be compelled to suffer the loss, but should be entitled to a return on the money which it has spent for the public. On the other hand, if it costs more to reproduce the property at the time of the subsequent rate inquiry, it would seem just as unfair to the consumer to compel him to pay a return on moneys in excess of those which the agent has expended in the service. The injustice of the reproduction value new theory in these two cases, first to the utility and then to the consumer, has been clearly stated by Judge Van Fleet in the *San Diego Water Company* case, hereinbefore referred to. In that case the question at issue was the basis on which the water company was entitled to a return. Referring first to the unfairness to the water company of applying the basis of estimated reproduction value new in case prices have gone down, Judge Van Fleet, at page 568, says:

> "The construction of a municipal water works is a matter of growth. It is necessary in common prudence, on the one hand, to construct the water works of such capacity as to satisfy the needs of the growing city, not only at the moment, but within the near future; and, on the other hand, not to extend them so much as to cast an unnecessary burden on the stockholders, or the present consumers. As such works are a necessity to the city, they must keep pace with, and to some extent anticipate its growth. When constructed they stimulate to that extent the progress of the city, and tend, like all conveniences, to lower the general cost of production of all things. It results that at least the first water system in any city occupies the position of a pioneer. At any expense the works must be constructed, and usually no reward can be realized by the constructors until some time has elapsed. It would, therefore, be highly unjust to permit the consumers to avail themselves of the plea that at the present time similar works could be constructed at a less cost, as a pretext for reducing the rates to be paid for the water. The reduced expense, if it be reduced, is due in part at least to the very fact that the city has been provided at the cost of the water company with increased facilities for doing business."

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Referring then to the injustice to the consumer if he is compelled to pay a higher rate on the ground of an advance in prices, Judge Van Fleet, at page 569, continues:

> "Nor would it, on the other hand, be just to the consumers to require them to pay an enhanced price for the water, on the ground that it would now cost more to construct similar works. Such a contingency may well happen; but to allow an increase of rates for such reason would be to allow the water company to make a profit, not as a reward for its expenditures and services, but for the fortuitous occurrence of a rise in the price of materials or labor. The law does not intend that this business shall be a speculation in which the water company or the consumers shall respectively win or lose upon the casting of a die, and upon the equally unpredictable fluctuations of the markets."

Judge Van Fleet thus looks on both sides of the shield and shows how the application of the reproduction value new theory may work just as great an injustice to the utility under one set of facts as it may to the consumer under another. The reproduction value new theory has no necessary relationship whatsoever to the sacrifice which the utility has made. It seems to me no more fair to give a return on $500,000.00 when the entire amount invested has been but $100,000.00, than it is to confine a return to $100,000.00 when the utility has honestly and in good faith invested in its capacity as agent for the public and under its obligations to the public, the sum of $500,000.00. It should be borne in mind that this criticism is directed more to an estimated reproduction value new at the time of the inquiry than to an estimated reproduction value based on the historical method and on the conditions and prices prevailing at the time when the different portions of the plant were constructed.

Notwithstanding what would seem to be the simple common sense and logic of the situation, the defendant here claims, and other utilities in other cases before this Commission continually claim, that under the established cases this Commission will be compelled to yield a return on the cost of reproduction new of the property, irrespective of any other element. I am of the opinion that a careful consideration of the cases which have been decided by the Supreme Court of the United States, which court alone has the final say in this matter, will show that this position is entirely erroneous. I shall now proceed to a consideration of the principal cases which have been decided by the Supreme Court of the United States on this point.

The original and leading case is *Smythe* vs. *Ames*, 169 U. S. 466. In that case the Supreme Court affirmed a decree of the lower court enjoining certain railway companies from establishing certain rates prescribed by an act of the legislature of Nebraska, on the ground that the rates

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so established were confiscatory. In announcing the decision of the Supreme Court, Mr. Justice Harlan uses the following language with reference to the proper basis for public utility rates:

> "We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case."

He then continues as follows:

> "What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth."

This language must be considered in the light of Mr. Justice Harlan's earlier declaration in the same case, to the effect that a statute or order establishing rates for the transportation of persons or property by railroad will violate the provisions of the federal constitution if it "will not admit the carrier earning such compensation as under all the circumstances is just to it and to the public."

It seems clear that under "all the circumstances" should be included the fundamental circumstance of the character of the relationship between the public and the utility, which relationship, as has hereinbefore been indicated, may in many respects be compared to that between a principal and an agent. Before leaving this case, I desire to draw attention to the fact that Mr. Justice Harlan was urged by the railroads to accept the outstanding stocks and bonds as the proper basis for rate fixing, but that he refused to do so, and that in getting away from that basis he used the other bases hereinbefore referred to.

In *San Diego Land and Town Company* vs. *National City*, 174 U. S. 739, the San Diego Land and Town Company filed a bill in equity in the United States Circuit Court for the Southern District of California, against the city of National City, to obtain a decree declaring water rates fixed by the defendant to be void as violating the state and federal constitutions, and to secure an injunction against their enforcement. The decree of the lower court dismissing the bill was affirmed.

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With reference to the basis on which a return shall be allowed, Mr. Justice Harlan, at page 757, uses the following language:

> "What the company is entitled to demand, in order that it may have just compensation, is a fair return upon the reasonable value of the property at the time it is being used for the public. The property may have cost more than it ought to have cost, and its outstanding bonds for money borrowed and which went into the plant may be in excess of the real value of the property. So that it can not be said that the amount of such bonds should in every case control the question of rates, although it may be an element in the inquiry as to what is, all the circumstances considered, just both to the company and to the public."

It is evident that Mr. Justice Harlan had in mind the possibility that the moneys originally expended may have been unwisely or dishonestly expended and that he was trying to get away from the claim that a utility is entitled to a return on the amount of the outstanding securities. There is nothing in this case which justifies the claim that a rate-fixing authority must confine itself to the theory of reproduction value new. Mr. Justice Harlan simply states that a utility is entitled to "a fair return upon the reasonable value of the property at the time it is being used for the public." That the time as of which the value must be ascertained is the time of the inquiry is too well established to permit of any doubt. There is nothing in this case which justifies the conclusion that the property of the utility will be confiscated unless a return is allowed on the reproduction value of the property, without regard to the relationship existing between the public and the utility. No question of appreciation of land values or other values was before Mr. Justice Harlan.

In *City of Knoxville* vs. *Knoxville Water Company*, 212 U. S. 1, the Supreme Court reversed a decree of the Federal Circuit Court for the Eastern District of Tennessee, enjoining the enforcement of an ordinance of the city of Knoxville establishing minimum rates for water. In this case, the Master below apparently reached his conclusion on the basis of the cost to reproduce the property new. Mr. Justice Moody held that this was error, and for that reason the Supreme Court reversed the order of the lower court. Referring to the reproduction new theory, Mr. Justice Moody, at page 9, says:

> "The cost of reproduction is one way of ascertaining the present value of a plant like that of a water company, but that test would lead to obviously incorrect results if the cost of reproduction is not diminished by the depreciation which has come from age and use."

Continuing, he says, at page 10:

> "The cost of reproduction is not always a fair measure of the present value of a plant which has been in use for many years. The items composing the plant depreciate in value from year to

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year in a varying degree. Some pieces of property, like real estate for instance, depreciate not at all, and sometimes, on the other hand, appreciate in value. But the reservoirs, the mains, the service pipes, structures upon real estate, standpipes, pumps, boilers, meters, tools and appliances of every kind begin to depreciate with more or less rapidity from the moment of their first use. It is not easy to fix at any given time the amount of depreciation of a plant whose component parts are of different ages, with different expectancies of life. But it is clear that some substantial allowance for depreciation ought to have been made in this case."

For the reason that no such allowance was made, the decision below was reversed. It thus appears that the Supreme Court of the United States, contrary to defendant's position herein, has definitely discarded the theory of reproduction cost new, in a case in which material depreciation has taken place. It is proper to say, before leaving this case, that both sides below started with estimated reproduction cost and that nothing was urged concerning the original investment with betterments and additions.

In *Willcox* vs. *Consolidated Gas Company*, 212 U. S. 19, the Supreme Court reversed a decree of the Circuit Court for the Southern District of New York, enjoining the enforcement of an 80 cent gas rate in the city of New York. The principal question in this case was whether a franchise value of twelve million dollars, found by the court below, should stand. Although the court below found that the present value of the franchise was twelve million dollars, Mr. Justice Peckham refused to follow his own language to the effect that the present value of the property is the determining factor, and allowed only a value of $7,781,000.00, which value had been agreed upon by the State of New York by a statute of 1884.

Referring to the general question of the basis of return, Mr. Justice Peckham, at page 52, says:

"And we concur with the court below in holding that the value of the property is to be determined as of the time when the inquiry is made regarding the rates. If the property, which legally enters into the consideration of the question of rates, has increased in value since it was acquired, the company is entitled to the benefit of such increase. That is, at any rate, the *general rule*. *We do not say there may not possibly be an exception to it, where the property may have increased so enormously in value as to render a rate permitting a reasonable return upon such increased value unjust to the public. How such facts should be treated, is not a question now before us, as this case does not present it. We refer to the matter only for the purpose of stating that the decision herein does not prevent an inquiry into the question when, if ever, it should necessarily be presented.*"

I desire to draw attention to the fact that while Mr. Justice Peckham uses the general language found in all the cases to the effect that a

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utility is entitled to a return on the value of the property as of the time when the inquiry concerning the rates is made, he seems also to see the danger ahead if this theory is carried to its logical conclusion. He expressly states that there may be cases when property values have increased so enormously as to make a rate based thereon unjust, and refuses to decide that question.

Finally, in *Simpson* vs. *Shepard*, 230 U. S. 352, more commonly referred to as the *Minnesota Rate* case, decided on June 9, 1913, the Supreme Court, for the first time, examined the question of land values as bearing on the proper basis for establishing public utility rates. Mr. Justice Hughes, while again using the general language with reference to present value found in the earlier cases, gave to the railroads considerably less than the reproduction value new of their lands or the present value thereof, based upon the cost of present acquisition. He refused to allow any multiples for ascertaining the "value for railway purposes" from the so-called "market value" and also made no allowance for overhead expenditures in connection with land, such as administration, superintendence, engineering, taxes, and interest during construction. In refusing to allow anything for these items, Mr. Justice Hughes, at page 455, says:

> "Assuming that the company is entitled to a reasonable share in the general prosperity of the communities which it serves, and thus to attribute to its property an increase in value, still the increase so allowed, apart from any improvements it may make, can not properly extend beyond the fair average of the normal market value of the land in the vicinity having a similar character. Otherwise we enter the realm of mere conjecture."

The same conclusion is then expressed in greater detail as follows:

> "The company would certainly have no ground of complaint if it were allowed a value for these lands equal to the fair average market value of similar land in the vicinity, without additions by the use of multipliers, or otherwise, to cover hypothetical outlays. The allowances made below for conjectural cost of acquisition and consequential damages must be disapproved; and, in this view, we also think it was error to add to the amount taken as the present value of lands the further sums, calculated on that value, which were embraced in the items of 'engineering, superintendence, legal expenses,' 'contingencies,' and 'interest during construction.'"

It can not be disputed that Mr. Justice Hughes did not allow the cost of reproducing these lands new. It is equally clear that he does not allow even as much as the present value of the land. As already pointed out, he allows only the "fair average market value of similar lands in the vicinity," without allowing anything for the damages which we all know are caused by the severance of railway rights of way from larger tracts of land and without allowing anything for the expense of acquisition. He simply says that under all the circum-

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stances of the case, including, of course, the tremendous increase in the value of the land, the railway company ought to be satisfied if it is allowed a sum "equal to the fair average market value of similar lands in the vicinity," without any addition whatsoever for consequential or severance damages or the expense of acquisition.

Referring directly to the reproduction value new theory, as applied to property which is subject to physical deterioration, Mr. Justice Hughes finds that the court below erred in allowing this basis without the necessary subtraction for depreciation. At page 457 Mr. Justice Hughes says:

> "And when an estimate of value is made on the basis of reproduction new, the extent of existing depreciation should be shown and deducted."

Again, at page 458, he says:

> "And when particular physical items are estimated as worth so much new, if in fact they be depreciated, this amount should be found and allowed for. If this is not done, the physical valuation is manifestly incomplete. And it must be regarded as incomplete in this case: *Knoxville* vs. *Knoxville Water Co.*, 212 U. S. 1, 10."

Two conclusions stand out clearly from this case, one being that the Supreme Court of the United States, in this most recent expression of opinion, has definitely discarded the theory of reproduction value new, as to property which has actually depreciated, and the other being that with reference to the very important question of land, the Supreme Court refused to allow the reproduction value new and likewise the full present value, apparently for the simple reason that it would be unfair and unjust to do so.

On these authorities, it would seem clear beyond dispute that the defendant's position to the effect that this Commission must take the reproduction value new basis has been definitely discarded by the highest court in the land. It would seem that the only basis to which the Supreme Court has as yet committed itself is the value which, at the time of the inquiry, under all the circumstances disclosed, is a "fair value" for the purposes of the case. What Mr. Justice Harlan said in *Smythe* vs. *Ames* to the effect that all the elements which enter into the problem must be considered, is still the law.

Defendant, in its brief, quotes from *Cotting* vs. *Kansas City Stock Yards Company*, 183 U. S. 79, which case, in turn, quotes from *Canada Southern Railway Company* vs. *International Bridge Company*, 8 App. Cas. 723, a House of Lords case, to the effect that the reasonableness of the rate depends not upon what profit it may be reasonable for the utility to make, but on what it is reasonable to charge to the person who is charged. In its last analysis, this is simply a restatement of the

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claim formerly made that a utility has the right to charge what the traffic will bear. It is not necessary to give further consideration to this theory, for the reason that the Supreme Court of the United States, in all its decisions, looks simply to the profit which it is reasonable for the utility to make and not to the so-called value of the service, except that what the consumer can reasonably afford to pay is the maximum limit of a fair and reasonable rate.

While I thus find myself unable to agree with defendant's argument with reference to the estimated reproduction cost new theory, I find that there is much merit in defendant's attack upon the basis resulting from the subtraction from the estimate of reproduction new of theoretical depreciation based upon mortality tables. Engineers frequently ascertain what they call a "per cent value" by subtracting from the estimated reproduction cost new, an item for theoretical depreciation, which is ascertained by multiplying the average age of each class of material by the theoretical depreciation obtained from so-called mortality tables. The basis so secured may be just as unfair to the utility as the basis of reproduction value new may be to the consumer. Thus, a public utility plant may originally have cost $10,000.00. The money may have been invested honestly and with a fair degree of wisdom. At the end of three years the plant may be giving 100 per cent service. The component parts have been correlated and the system is in first-class working order. While the component parts may not be intrinsically as sound as when they were new, it would be a foolish waste of money to renew them, for the reason that they are doing their work and that they are giving 100 per cent service, without any danger of wearing out in the near future. Under these circumstances, an engineer applying mortality tables and estimating the theoretical depreciation at 5 per cent per year, reaches the conclusion that the present value of the plant is only 85 per cent of the original investment, being the sum of $8,500.00. The Commission is accordingly urged to grant a return based on an estimated present value of $8,500.00. If this return is allowed at the rate of 8 per cent, an allowance of $680.00 will be made for interest. The utility, however, has in good faith paid out of its pocket for capital account the sum of $10,000.00, and is giving 100 per cent service to the public. What is to become of the remaining $1,500.00 which the company has honestly invested? If a man loans $10,000.00 on a first mortgage, he expects interest on the entire sum which he loans and expects ultimately to get back his entire principal. Why should this same man, if he invests $10,000.00 in a public utility enterprise and keeps up his property in first-class condition, so that he is rendering 100 per cent service, be refused a return on the difference between his investment and a theoretical depreciated reproduction value? It may be urged that justice may be done by placing the

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remaining $1,500.00 in a depreciation fund, which fund may be invested and bear interest. As I shall hereafter show, however, under the provisions of section 49 of the Public Utilities Act, the income from investment of moneys in depreciation funds of public utilities in this state must be carried in these funds and can not be used for the payment of interest on investment or operating expenses. The injustice of applying such theory becomes more apparent as the age of materials and structures increases. If the theory is carried to its logical conclusion and the engineer makes no allowance for repairs and replacements, but confines himself strictly to the age of the structures and his mortality tables, there will come a time when the value of the property will have been depreciated to zero, so that no return whatsoever would be allowed. While this may be a fanciful case, it is of value in testing the accuracy of the theory. It seems strange that public utilities, in protesting against this theory, frequently do not seem to realize that the real reason for their protest is that the application of this theory deprives them of a return on a portion of the money which they have invested. It must also be remembered that the ascertainment of the physical condition per cent of a property is one thing and that the ascertainment of a proper basis on which to give a return may be an entirely different thing. The engineer frequently forgets this distinction, and erroneously believes that his work is the same as that of the rate-fixing authority.

It must be apparent, however, that it may well happen that a utility under certain circumstances is not entitled to a return on the amount of money invested, and that in such case certain deductions must be made for actual depreciation. For instance, if the utility does not set aside in a depreciation fund a sufficient portion of its income to cover the necessary replacements, from time to time, to replace portions of the plant which can no longer be used, either because they have come to the end of their natural life or because of obsolescence or inadequacy, and if the moneys which should be set aside in such fund are diverted to the stockholders in the shape of dividends, such diversion is practically equivalent to a payment of dividends out of capital. As the investment has thus been reduced, there must be a corresponding reduction in the basis of return. Stockholders must not entertain the delusion that they can take out all the earnings in the shape of dividends and still claim a return on the basis of the original investment.

A realization of the injustice which frequently follows from the application of the theory of reproduction cost new less depreciation based on mortality tables, is inducing rate-fixing authorities to pay more attention to the actual depreciation as shown by an inspection of the plant and to the question whether the necessary renewals and replacements are being made so as to keep the service for the present

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and for a reasonable time in the future up to a standard of 100 per cent.

After a consideration of these and other fine-spun theories, the mind of a practical man instinctively turns for first guidance to the simple question of the amount of money which has been honestly and wisely invested. While it is, of course, evident that there may be many circumstances under which the application of this basis alone would not be equitable, and that qualifications must be made as justice and equity require, it would seem to the lay mind that a rate-fixing authority will not go far wrong if, in determining the basis for rates, it first ascertains the amount of money which the utility has invested honestly, and with a fair degree of wisdom, in the business which it is conducting for and on behalf of the public.

As Justice Van Fleet says in the *San Diego Water Company* case, at page 569:

> "For the money which the company has expended for the public benefit it is to receive a reasonable, and no more than a reasonable reward. It is to be paid according to what it has done, and not according to what others may conceivably do. In effect, the bargain between the company and the public was made when the water works were constructed; and this matter is to be determined according to the state of things at that time."

Some of the necessary qualifications to this test are stated by Justice Van Fleet, at page 572, as follows:

> "It should, of course, be said that it does not follow that in every case the company will be entitled to credit for all of its current expenditures, or to receive a compensation based on the entire cost of its works. Reckless and unnecessary expenditures, not legitimately incurred in the actual collection and distribution of the water furnished, or in the acquisition, construction or preservation of so much of the plant as is necessary for that purpose, can not be allowed. . . . It is the money reasonably and properly expended in the acquisition and construction of the works actually and properly in use for that purpose which constitutes the investment on which the compensation is to be computed."

The same views were expressed by Franklin K. Lane, at that time a member of the Interstate Commerce Commission, in *Western Advance Rate* case, 20 Interstate Commerce Commission Reports 307. Referring to the claim of the Burlington railroad that it was entitled to a return on the entire present value of the property, including an item of one hundred and fifty million dollars of unearned increment of land, Mr. Lane, at page 339, says:

> "In the face of such an economic philosophy, if stable and equitable rates are to be maintained, the suggestion has been made that it would be wise for the government to protect its people by taking

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to itself these properties at present value rather than await the day, perhaps thirty or fifty years hence, when they will have multiplied in value ten or twenty fold."

Mr. Lane then reaches the following conclusion as the proper basis of fixing rates:

"The trend of the highest judicial opinion would indicate that we should accept neither the cost of reproduction, upon which the Burlington's estimate of value is made, nor the capitalization which the Santa Fe accepts as approximate value, nor the prices of stocks and bonds in the market, nor yet the original investment alone, as the test of present value for the purposes of rate regulation. Perhaps the nearest approximation to the fair standard is that of bona fide investment—the sacrifice made by the owners of the property—considering as a part of the investment any shortage of return that there may be in the early years of the enterprise. Upon this, taking the life history of the road through a number of years, its promoters are entitled to a reasonable return. This, however, manifestly is limited; for a return should not be given upon wastefulness, mismanagement or poor judgment, and always there is present the restriction that no more than a reasonable rate shall be charged."

With this conclusion as establishing what will generally be the most important circumstances to be considered in ascertaining the fair value of public utility property for rate-fixing purposes I heartily concur. I do so, however, with the understanding that there must be a reasonable limit to the period during which a shortage of return may be capitalized. Otherwise, the rate-fixing authority will be in the ridiculous position of holding that the greater the early losses, the greater the value of the property for rate-making purposes. In concurring I also have in mind that these different tests are but aids in determining the ultimate fact, which will always be to determine on the facts of the case, what is fair and just as between the utility and its customers.

Certain objections at once occur to the universal application of the investment basis. The first objection is that it would not be fair in all cases to rely on this basis alone. The answer is that it is not intended to urge this basis as one always to be applied under all circumstances, and that it is simply meant to urge this test as generally one of the most important to be applied, but that it must be modified as the justice of any particular situation demands. After all, the ultimate thing to be accomplished is to establish justice as between a utility and its customers, and these different tests which I have been considering are but different suggested methods of securing justice in particular cases.

The objection that the investment should not be used as a basis for utility rates, for the reason that it is often difficult to ascertain the original cost, goes not to the correctness of the principle but to the difficulty of applying it in a given case. If the original cost can not

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be ascertained in a given case, it, of course, can not be used in that case. In that event, it would seem that courts and commissions should strive to ascertain as nearly as possible what the original cost reasonably should have been. This result will, in such event, be accomplished by the use of the reproduction cost theory under the so-called historical method. This theory would be used in such event, not for the reason that it is necessarily in itself the proper theory, but because it furnishes in the particular case the best available evidence of what the original cost reasonably should have been.

The objection that a public utility is entitled to all accretions in the investment, whether it be in lands or water rights or what not, is most frequently urged by utilities which, in the same breath, claim that nothing should be subtracted for depreciation. I at times wonder whether these utilities have so little faith in the ultimate victory of the principles of simple justice that they believe that they can succeed in establishing a principle which to the lay mind seems so unfair and inequitable. A discussion of the question of appreciation in values would lead me so far afield that I deem it unnecessary to go into this matter at this time. I desire, however, to draw attention to the fact that in two of the most important decisions of the Supreme Court of the United Sates, that court has refused to allow all the accretions in value which had actually taken place. In the *Consolidated Gas* case, as hereinbefore pointed out, the court refused to allow the accretion in franchise value, and in the *Minnesota Rate* case, as also hereinbefore pointed out, the court refused to allow the full appreciated value of land.

Leaving this branch of this opinion, I desire to draw the attention of public utility managers to the undoubted fact that exaggerated claims of values on the part of public utilities can not but react on those who make them. If public utilities insist on being allowed a return on all accretions in value with no diminution for depreciation, they need not be surprised if the people of this country, acting on the suggestion made by Mr. Commissioner Lane in the *Western Advance Rate* case, decide to take over all these utilities themselves, rather than pay rates on the ever increasing values which have hitherto been urged in connection with land and which are now being urged in this State in connection with water rights.

While I have thus analyzed and commented upon some of the more important theories which are at times presented to this Commission as proper bases for ascertaining the "fair value" of public utility properties for rate-making purposes, I desire to have it distinctly understood that this Commission does not commit itself to any one of these theories to be uniformly applied in any class of cases. This Commission will continue, as it has done in the past—relying on the words of Mr. Justice Harlan in *Smythe* vs. *Ames*—to consider all the elements which

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enter into the problem in any given case, and to give to each the weight to which the Commission in equity and justice believes it to be entitled on the facts of any given case. In reaching its conclusion, however, the Commission will continue to give great weight, when the facts can be ascertained, to the amount of money which the utility has invested honestly, and with a reasonable degree of foresight.

2. Going Concern Value.

The defendant claims that to reproduction new an amount should be added for what it terms "going concern value." Defendant's brief does not show clearly the class of expenditures which shall be covered by this item, nor does the brief show the total amount claimed further than the general statement that "an allowance equal to at least 20 per cent of the cost to reproduce the physical property should be added to the value of the physical property to cover costs of developing the business."

That an allowance must at times be made for the cost of developing the business seems clear. In *City of Palo Alto* vs. *Palo Alto Gas Company* (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 300), this Commission, at page 310, said:

> "That there are certain actual costs incurred in developing the business during its early stages, for which costs the utility is entitled to be reimbursed, just as clearly as it is entitled to a return on the physical portions of its plant, seems too obvious for argument. The investor must go into his pocket to meet one kind of cost just as clearly as the other. There are two schools of thought with reference to the manner in which the so-called 'going concern' value or 'development cost' should be met. The supporters of one school are of the view that these items should be added to capital account, while those of the other school believe that they should be taken care of by rates higher than would otherwise be in effect, during the first years of the utility's existence. The difficulty with the first view is that its adoption will result in the increase of the permanent capital account and the consequent payment of higher rates for all time to come. The difficulty with the latter view is that it casts upon the patrons during the first years the duty of paying rates even higher than the usual relatively high rates which are paid at the outset of a utility's history. I am of the opinion that such costs, legitimately and wisely incurred, should be taken care of in some way, but the exact method to be pursued, and the extent to which consideration should be given to such items will depend upon the facts of each particular case. It might well be, for instance, that if the utility is unwisely conceived or struggles against unusual difficulties, the cost of developing the business including the early losses may run up to almost the entire value of the physical plant, if not in excess thereof. It may happen also that while in one case the addition of these costs to capital account might be perfectly fair, in another case justice will require that these costs be reimbursed out of higher rates during the first few years, or that some combination of these theories be adopted."

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In *Thomas Monahan, Mayor of San Jose* vs. *San Jose Water Company*, Case No. 476, this Commission also said:

> "I am firmly of the opinion that necessary development cost, which is interest on the idle money in a plant during a reasonable time in which it may reasonably be expected not to be fully productive, is as much a part of the cost of the plant as an expenditure for pipe or right of way. What I mean definitely is this: There is presented a field for the operation of a public utility. It is known that this utility after it is constructed and ready to begin operation can not from the beginning earn a reasonable amount on the investment. A fair degree of wise foresight prepares the business man for these losses in the early days of his business, and if such losses are not to be recouped from earnings after the plant has reached maturity, then the investor can not be expected to make such investments. But this principle does not justify the investment of money in an enterprise that does not give promise of reaching a paying basis within a reasonable time. If the business is well conceived there will be a uniform approach from the very beginning of the operation of the completed enterprise to a fully paying basis. During the development period, therefore, there will be yearly a decreasing amount of the capital investment which is not returning a reasonable amount, and the interest upon this decreasing amount of idle capital is a part of the cost of the property which must be foreseen and prepared for by the investor and must be allowed by the rate-fixing body."

In *City of Milwaukee* vs. *Milwaukee Electric Railway and Light Company* (Vol. 10, Wisconsin Railroad Commission Reports, p. 1), one of the most recent and extensive of the decisions of the Railroad Commission of Wisconsin, the Commission, at page 122, says:

> "It is conceded that in addition to the value of the tangible property some allowance is properly made for the cost of building up the business, or the losses sustained before the property has been placed upon a paying basis. Previous decisions of this commission have recognized the necessity of compensating for such early losses and the existence of a going concern value is recognized by both parties to the complaint in the present case. (Citing cases)."

In *People* vs. *Willcox*, 141 N. Y. S. 677, Mr. Justice Miller defines "going value" as follows:

> "I define 'going value' for the purposes as involved in this case to be equal to the deficiency of net earnings below a fair return on actual investment due solely to time and expenditures reasonably necessary and proper to the development of business and property to its present stage; and not comprised in the valuation of the physical property. 'Going value' is to be appraised by showing the actual experience of a company, the original investment, its earnings from the start, the time actually required and expenses incurred in building up a business, all expenditures not reflected by the present condition of physical property, the extent to which bad management or other causes prevent or deplete earn-

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> ings, and any other facts bearing on the question, keeping in mind that the ultimate fact to be determined is not the amount of expenditures, but the deficiency in a fair return to investors due to the causes under consideration."

It will be noted that in each of the foregoing quotations the basis used is that of actual expenditures, thus following the investment theory. If the reproduction value theory is followed, experts at times estimate the expenditures which would probably be made before the hypothetical or comparative plan to which they refer should have been placed upon an earning basis identical with the existing property. These estimates are largely guesswork and are most unreliable, and will be given very little weight by this Commission, particularly if evidence of the actual facts can be secured. The best evidence of what should be allowed for developing the business is the money which has actually been expended for that purpose.

While the general rule is as thus stated, certain qualifications must be made. The effort to include as "going concern value" the valuation for "good will" in cases of utilities which have, in fact, a monopoly of the business, has been definitely repudiated by the Supreme Court of the United States in *Willcox* vs. *Consolidated Gas Company*, 212 U. S. 19, 52, and *Cedar Rapids Gas Light Company* vs. *Cedar Rapids*, 223 U. S. 655, 669. It must also be remembered that if the investment has been unwisely made, or if the plant has been made larger or more expensive than necessary, deficits resulting from these causes should receive very little consideration. The effect of abnormal conditions, bad management, poor judgment, and lack of ordinary care and foresight must be borne by the utility and not by the public.

In considering this element, consideration must also be given to profits which the utility has made in the past. It is just as unfair to ask the rate-fixing authority to consider deficits alone and not profits, as it is to ask that in establishing value, appreciation be considered, but never depreciation. If the returns in the past are to be considered, the whole story should be considered and not merely a fragment thereof.

There may also well be cases, particularly those growing out of the relationship between land companies and water companies owned by the same people, in which, while there have been apparent deficits in the operation of the water companies, these deficits have been caused by a desire to sell land by the inducement of cheap water, so that the actual profits have gone into the pockets of the promoters through the land company instead of through the water company. In such a case, careful consideration must be given to the relationship between the land company and the water company, and it does not follow by any means that the water company should have the right, after its owners have made their profits in another way, to come before a rate-fixing body

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and claim what would, in effect, amount to a double profit by asking such authority to allow for it a "cost of developing the business."

3. Depreciation Reserve.

That an allowance must be made out of earnings to establish a depreciation reserve is generally admitted by courts and commissions. There has been very considerable confusion, however, with reference to the purpose of such fund and the methods to be used in ascertaining the amounts to be set aside in the fund, year by year.

That in the course of time all the elements in a public utility plant wear out and that replacements must be made when their natural life ceases, is clear. It is equally well established that by reason of advances in the art or growth in the business, portions of public utility plants, through what is generally called obsolescence and inadequacy, must be removed before the expiration of their natural life. While ordinary repairs should be classed as operating expenses, the proper function of a depreciation reserve fund would seem to be to take care of replacements made necessary by the wearing out of structures and materials and to the discarding of the same due to obsolescence and inadequacy.

That a utility has the right to look to its consumers for the establishment and maintenance of such fund has been directly established by the Supreme Court of the United States in *Knoxville* vs. *Knoxville Water Company,* 212 U. S. 1. In this case, Mr. Justice Moody, at page 13, says:

> "Before coming to the question of profit at all, the company is entitled to earn a sufficient sum annually to provide not only for current repairs, but for making good the depreciation and replacing the parts of the property when they come to the end of their life. The company is not bound to see its property gradually waste, without making provision out of its earnings for its replacement. It is entitled to see that from earnings the value of the property invested is kept unimpaired, so that, at the end of any given term of years, the original investment remains as it was at the beginning. It is not only the right of a company to make such a provision, but it is its duty to its bond and stockholders, and, in the case of a public service corporation, at least, its plain duty to the public."

Section 49 of the Public Utilities Act of this state reads as follows:

> "The commission shall have power, after hearing, to require any or all public utilities to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the commission may prescribe. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of each public utility. Each public utility shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and

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subsequent replacement as the commission may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund."

I desire to draw particular attention to the last sentence, under which the income from the investment of moneys in public utility depreciation funds in this state must be carried in the depreciation fund itself. In other words, the interest earned by moneys in the depreciation fund can not be used for the payment of dividends or for meeting operating expenses. This fund, together with the interest on all moneys invested therein, is a trust fund set aside for the specific purpose of taking care of replacements, whether of worn out material or of material which has become obsolescent or inadequate, in accordance with such rules, regulations, and forms of account as this Commission may prescribe. As the interest is to remain a portion of the fund, it would seem that ordinarily in this state the sinking fund basis should be used in determining the amount to be set aside annually in this fund.

The method of determining the amount of money which should go into this fund, year by year, is not entirely free from doubt. It would seem that it is necessary to take into account the actual conditions surrounding the installation and operation of the different classes of material and that the average natural life of the materials in a given plant should be determined from all these facts, with the proper allowance, if any, for salvage. It will not always be easy to make the necessary modifications due to possible obsolescence or inadequacy. However, if the allowance made for these items proves inaccurate, the necessary changes may be made by the rate-fixing authority from time to time. It would be possible, as a matter of theory, either to place in the depreciation fund only a sufficient revenue to take care of the replacements as they actually accrue, year by year, or to place in the fund a sufficient sum so that with its interest it shall take care of replacements in the long run and over the life of the different constituent elements of the utility plant. The application of the first method would result in low rates during the first years of a plant's life, while the replacements are relatively insignificant, with an increase in the rate during the later years of the utility's life, when it becomes necessary to make more frequent and expensive replacements. While, as a matter of theory, either of these policies might logically be pursued, it would seem that because of the difficulty of increasing rates and of the frequent inclination of stockholders to take out all earnings without any thought of to-morrow, it might be wiser to establish the fund on the second basis, as is generally done by railroad and public service commissions.

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As ordinary repairs will be charged to operating expenses as they accrue, year by year, and as the interest on the moneys in the depreciation reserve fund will be credited to that fund, the result may well be the establishment of lower depreciation reserve funds than has hitherto at times been the case.

4. Rate of Return.

On the question of rate of return, defendant presented the affidavit of its treasurer, Mr. A. F. Hockenbeamer, to which consideration will be given when I come to the questions of fact involved in this proceeding.

For the present, I desire simply to address myself to the general principles involved in the determination of the rate to be allowed in any given case.

In *Willcox* vs. *Consolidated Gas Company, supra*, Mr. Justice Peckham, at page 48, says:

> "There is no particular rate of compensation which must in all cases and in all parts of the country, be regarded as sufficient for capital invested in business enterprises. Such compensation must depend greatly upon circumstances and locality; among other things, the amount of risk in the business is a most important factor, as well as the locality where the business is conducted, and the rate expected and usually realized there upon investments of a somewhat similar nature with regard to the risk attending them."

In *re Rates of Queens Borough Gas and Electric Company* (Vol. 2, Public Service Commission Reports, First District, New York, p. 544), the Commission of the First District, speaking through Mr. Commissioner Maltbie, at page 576, says:

> "Various standards have been suggested for determining a fair rate of return. The one which in our opinion is properly applicable to this case is that the rate should be such that investors would be induced to provide the funds with which to construct and extend a gas and an electric plant within the area in question. If the state were to fix a rate below this standard, capital could not be secured. If investment were made before the state acted, the original capital might be forced to remain, but additional capital could not be secured unless necessary to protect the first outlay."

In *City of Palo Alto* vs. *Palo Alto Gas Company* (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 300), this Commission, at page 316, said:

> "No fixed percentage applicable to all cases and all classes of utilities can be established by this Commission. Each case must be judged on its own merits. It may well be that a utility in one community would be entitled to one rate of return while a similar concern in another community would be entitled to a different rate. It may be that a large and solidly established utility will not be entitled to as high a return as a smaller utility which is struggling against adverse circumstances. The most that can be

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said by way of general principles is that the return should be at least the average return which is earned by other classes of business of the same degree of hazard in the same community. The Commission in fixing a rate of return must be liberal, lest too strict a policy result in turning capital to other fields of enterprise. California needs development by public utilities, and this Commission's policy should be a broad and liberal one, so as to encourage capital to develop the state by legitimate public utility enterprises where needed."

It would seem that in general the rate of return should be such rate as is high enough to secure the funds for the development of the business, and that in reaching its conclusion on this point, the Commission should be liberal in its attitude.

I shall now proceed to a discussion of the facts in this case.

The town of Antioch receives its electric energy from a 60,000-volt transmission line of the Pacific Gas and Electric Company, from which line the energy is transformed through a substation located in Antioch. The energy is thence distributed to lighting and commercial customers, a municipal street lighting system, and the California Paper and Board Mills, which mills use electric energy for power purposes. This same substation is also used for the service of electric energy to an 11 kilovolt suburban line.

All customers in the city of Antioch are under meter. In March, 1913, there were 227 residence customers in Antioch and 99 commercial customers, in addition to the California Paper and Board Mills. Of the residence customers, 87 used 12 kilowatt hours or less, 86 over 12 kilowatt hours but not more than 22 kilowatt hours, and 54 in excess of 22 kilowatt hours. Of the commercial customers, 23 used 16 kilowatt hours or less, 55 used over 16 but less than 85 kilowatt hours, and 21 used in excess of 85 kilowatt hours.

The electric energy which is distributed in the town of Antioch is derived from three sources—the hydroelectric properties of Pacific Gas and Electric Company, the steam plants of that company and hydroelectric energy purchased from various other companies. The Pacific Gas and Electric Company's transmission system is a unit, so that electric energy from any of these three sources may at any time when necessary be transmitted to Antioch.

In order to ascertain a fair and reasonable rate in this case, it will be necessary first to ascertain the cost of the service, which I shall now proceed to do under two main heads—the cost of production and transmission and the cost of distribution.

I.

COST OF PRODUCTION AND TRANSMISSION.

Pacific Gas and Electric Company's hydroelectric power plants are as follows: Alta plant, in Placer County, rated capacity, 3,000 kilo-

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watt; Centerville plant, in Butte County, rated capacity, 6,400 kilowatt; Colegate plant, in Yuba County, rated capacity, 14,200 kilowatt; Deer Creek plant, in Nevada County, rated capacity, 5,500 kilowatt; DeSabla plant, in Butte County, rated capacity, 1,300 kilowatt; Electra plant, in Amador County, rated capacity, 20,000 kilowatt; Folsom plant, in Sacramento County, rated capacity, 3,750 kilowatt; Newcastle plant, in Placer County, rated capacity, 800 kilowatt; Yuba plant, in Yuba County, rated capacity, 660 kilowatt; and Drum plant, in Nevada County, rated capacity, 40,000 kilowatt, the latter plant having been recently completed.

The steam plants of the Pacific Gas and Electric Company are as follows: Station A, San Francisco, rated capacity, 42,000 kilowatt; Station B, Sacramento, rated capacity, 5,000 kilowatt; Station C, Oakland, rated capacity, 21,000 kilowatt; and San Jose steam plant, rated capacity, 2,200 kilowatt. Pacific Gas and Electric Company also purchases hydroelectric energy, under existing contracts, from Great Western Power Company, Northern California Power Company and Snow Mountain Water and Power Company, and at times purchases small amounts of electric energy from other companies.

The cost of producing energy in the hydroelectric plants of Pacific Gas and Electric Company, of producing energy in that company's steam plants and of the transmission of energy will be set forth in a series of tables which I shall shortly present. Before doing so, however, I think it well, in order to avoid repeated explanations, to draw attention at the outset to certain matters applicable to all these tables, as follows:

(1) Basis of return;
(2) Lands and water rights;
(3) Overhead percentages;
(4) Depreciation annuity;
(5) Rate of return.

1. Basis of Return.

The basis on which a return is allowed in this case is, in general, the estimated cost to reproduce the physical elements of the property new as of December 31, 1911, plus a proper allowance for overhead percentages, as determined by the Commission, plus the actual expenditures for additions and betterments, properly chargeable to capital account, from January 1, 1912, to January 1, 1914.

The reproduction value new as of December 31, 1911, is taken as one of the elements entering into the basis of return for the reason that the original cost is not available. While probably none of the hydroelectric plants of Pacific Gas and Electric Company, other than possibly the Drum plant, has a service value of 100 per cent, and while the basis of depreciated reproduction value would undoubtedly be sustained in

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this case, the Commission is purposely allowing the higher estimated reproduction value new basis so as to be absolutely fair to Pacific Gas and Electric Company, and also in order to take care of any going concern, water right or other value which Pacific Gas and Electric Company may possibly hereafter be able to prove in addition to the specific allowances herein made. Pacific Gas and Electric Company in this proceeding agreed that a basis should be fixed herein on which to ascertain the cost of energy delivered to all the cities which it serves with electric energy. The Commission desires to establish this basis in this case in such a way that it will not be necessary hereafter to increase it. If decreases hereafter become necessary they can readily be made under the decision in this case. In addition to allowing a reproduction value of the physical elements as of December 31, 1911, although it is clear that the system is not worth the cost to reproduce it new, I desire to draw attention particularly to the fact that the Commission is also including the sum of $842,634.61 for enlargement of the Bear River Canal, which work is as yet non-operative.

No evidence whatsoever was presented as to so-called "going concern" value or of the cost of developing the business, as an entirety. In view of the statement in the eighth annual report of Pacific Gas and Electric Company, for the fiscal year ending December 31, 1913, to the effect that in the eight years since its organization the net earnings of the company, after payment of bond interest, have aggregated $21,781,471.00, and that of this amount but 21 per cent was paid out in cash dividends and the remaining 79 per cent was reinvested in the property, applied in the reduction of funded debt, or expended for other corporate purposes, it would seem that it may well be difficult for Pacific Gas and Electric Company to prove that any allowance should be made for cost of developing the business.

With reference to water rights, attention will hereinafter be drawn to the fact that the Commission is allowing the full value of lands as claimed by Pacific Gas and Electric Company, including large excess values due directly to so-called water rights. I am drawing attention to these matters in order to show that the Commission, in allowing in this case a basis of return which contains a substantial margin above the amount established by the evidence, realizes that Pacific Gas and Electric Company will probably never be able to show elements of value amounting to the margin herein allowed, but is nevertheless willing, in order to avoid the necessity of hereafter increasing the rate, to use as a basis of return the very liberal allowance herein made.

2. Lands and Water Rights.

The Commission is accepting the value assigned to its lands by Pacific Gas and Electric Company, after deducting such lands as the evidence shows to be not properly chargeable to hydroelectric development. The

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lands so excluded include lands used only in connection with Pacific Gas and Electric Company's water business, as well as timber lands, mining claims and merely prospective reservoir sites, power house sites and rights of way. An additional allowance is being made under the head of maintenance charges to take care of the additional charge which would have to be made for timber in case Pacific Gas and Electric Company did not own its timber lands.

The amounts allowed for the remaining lands are not only greatly in excess of the moneys paid for them by Pacific Gas and Electric Company and its predecessors, but also include excess values amounting to hundreds of thousands of dollars for increased value due to their location and to the attachment of water rights. The testimony of Mr. Henley for the Pacific Gas and Electric Company clearly discloses this situation.

I desire to draw attention at this point to the fact that several continuations in this case were granted in order to enable a force of expert engineers employed by Pacific Gas and Electric Company to compile a report with reference to the value of that company's water rights. Although this report was finally presented to Pacific Gas and Electric Company prior to the last hearing in this case, the company chose not to present the same or any other evidence concerning the value of its water rights, other than the values contained in the company's estimate of its land values. It would be reasonable, under these conditions, to entertain the presumption that the report of the engineers employed by the Pacific Gas and Electric Company showed that the water rights owned by Pacific Gas and Electric Company have no value in connection with that company's hydroelectric developments. Nevertheless, in this proceeding, in order to avoid possible increases in the rate hereafter, the Commission is allowing the full value of lands as claimed by Pacific Gas and Electric Company, and also the margin over proved value hereinbefore referred to.

3. Overhead Percentages.

The estimated reproduction value new of the property of Pacific Gas and Electric Company as of December 31, 1911, as prepared by J. G.

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White & Company, shows overhead percentages used by that company as follows:

TABLE No. I.

Overhead Percentage Used by J. G. White & Company.

	Hydroelectric division—Construction			Sub-stations			Steam plants			Electric lines, etc.		
	One-year duration	Two-year duration	Three-year duration	Buildings	Equipment	Buildings	Equipment	Transmission lines—17 kilovolts and over	Distribution lines under 17 kilovolts	Overhead distribution systems	Underground distribution systems	Electric meters
	%	%	%	%	%	%	%	%	%	%	%	%
Administration	2½	2	1½	2½	2½	2½	2½	2½	2½	2½	2½	5
Interest during construction	3	6	9	3	3	3	3	3	3	3	3	½
Taxes during construction	½	1	1½	½	½	½	½	½	½	½	½	----
Liability insurance	1	1	1	1	1	1	1	2	2	2	2	2
Engineering and engineering supervision	8	8	8	8	8	8	8	5	5	5	5	5
Contingencies	8	8	8	8	8	8	8	8	8	8	8	2
Commissions	2	2	2	2	2	2	1	2	2	2	2	----
Tools	----	----	----	----	1	----	1	2	2	2	2	½
Totals, per cent	25	28	31	25	26	25	25	25	25	25	25	13

While high percentages for overhead are frequently presented by public utility engineers in connection with estimates to reproduce property new under given conditions, and while, under certain conditions and with reference to certain companies, particularly small companies, it may be necessary at times to allow high percentages in case it becomes necessary to apply the reproduction value theory, the amounts allowed for overhead expenditures in each case must be determined by the facts of that case and by what is found to be just and reasonable in that particular case. In the present case, we have a utility which extends over thirty counties of the state, and the different units of which were constructed in relatively short periods of time, piecemeal, and were promptly placed in operation and promptly began to produce revenue. We have also a company which has a large and efficient organization and which is able to construct additions and betterments, from time to time, at considerably less expense than would be the case with reference to a small utility which has no organization. To say that a utility of this kind is entitled to overhead expenditures far in excess of those actually and reasonably incurred in connection with its construction work, simply because the application of a certain theory—which theory is entirely foreign to the facts of the case—would result in such higher percentages, is of course unfair, unreasonable, and absurd.

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In the present case the Commission has spent considerable labor in trying to ascertain what overhead charges should properly be allowed. While ordinarily this matter is subject to considerable difference of opinion, it is largely due to the fact that utilities neglect the actual costs and choose to adopt estimates of what overhead expenditures might be incurred if the property were to be reproduced new under entirely different conditions from those which existed during its construction. Little reliable data is available tending to establish the facts in connection with overhead costs. This dearth of information may be explained by the fact that ordinarily no attempt is made by an operating company to segregate administration, engineering, interest and similar charges to construction. Frequently all or practically all of these charges are assigned to operating expenses.

In the present case, however, the Commission is fortunate in having available the actual expenditures in connection with the expenditure by Pacific Gas and Electric Company during the year 1913 of the sum of $10,107,643.89 upon additions and betterments. In this connection it should be borne in mind that of the total of $85,285,923.92 claimed by Pacific Gas and Electric Company in Exhibits No. 46 and No. 61 as representing the total value of its entire tangible property, both operative and non-operative, the sum of $38,514,781.00 was expended from 1906 to the end of 1913, so that almost one half of the entire value claimed by Pacific Gas and Electric Company represents expenditures made by a going concern, already in operation, under conditions largely similar to those which obtained with reference to the expenditure of the sum of $10,107,643.89 in the year 1913.

Of the total expenditures during 1913 for construction purposes, the total amount charged by Pacific Gas and Electric Company on its books for overhead expenditures amounts to $211,862.65, as appears from the following table:

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TABLE No. II.

Overhead Percentages Charged by Pacific Gas and Electric Company to Construction in 1913.

Department	Total expenses	Charged to engineering and superintendence	
		Per-centage	Amount
Vice-president and general manager	$22,166 19	5	$1,122 81
Auditing department	87,360 67	10	8,736 07
General engineering	31,678 71	90	28,510 79
Operating and mechanical department—hydro-electric	47,412 53	15	7,111 88
Electric distribution	35,657 37	65	23,177 29
Gas engineer	30,903 42	55	16,996 88
Law department	39,288 78	15	5,893 32
Land department	36,785 01	100	36,785 01
Purchasing department	20,643 26	10	2,064 33
Supply department	10,849 93	50	5,424 96
Stationery expense	40,742 93	10	4,074 29
Drafting expense	23,178 89	90	21,131 00
Postage and envelopes	7,861 37	2½	196 49
Telephone and telegraph	41,128 61	2½	1,028 21
Scrip and ticket orders	20,688 76	80	16,551 01
			$178,804 34
Brought forward from year 1912			42,967 52
			$221,771 86
Segregated to completed construction			181,786 52
Segregated to work in progress December 31, 1913			39,985 33
			$221,771 86
Interest during construction:			
Interest during year 1913			$10,096 02
Brought forward from year 1912			24,804 60
			$34,900 62
Segregated to completed construction			$30,076 12
Segregated to work in progress			4,824 50
			$34,900 62
Undistributed construction expenditures year 1913:			
Engineering and superintendence			$181,786 53
Interest during construction			30,076 12
			$211,862 65

It should be noted that the foregoing expenditure includes all expenses generally known as administrative, engineering, legal, miscellaneous and interest during construction, and that the total thereof, prorated to non-landed capital invested in additions and betterments during 1913, amounts to only 2.29 per cent. Attention, however, should be drawn to the fact that the interest during construction apparently includes only interest on working capital and that additional allowance must be made so as to completely cover the item of interest during construction. Apparently, additional allowance must also be made for insurance.

Pacific Gas and Electric Company, like other utilities, has apparently charged to operating expenses a portion of the expenditures which should more properly be chargeable to construction. The following table

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shows the entire general administrative expenses charged to operation during the year 1913, as shown by the books of Pacific Gas and Electric Company:

TABLE No. III.

General Administrative Expense Charged to Operation for 1913.

All Districts—All Departments.

Electric, gas, railway, water and steam departments:		
Executive officers		$98,442 01
Vice-president and general manager		21,313 38
Second vice-president and treasurer		17,510 39
Secretary and cashier		14,471 75
Auditor		78,621 60
General agent		5,709 39
Property agent		10,685 51
Superintendent of supplies		5,318 79
Purchasing agent		18,578 93
Claims department		911 45
Publicity department		5,007 19
Law department		3,395 46
Drafting department		2,317 89
Pension expense		5,603 94
Head office rent		11,243 14
Postage expense		3,293 96
Stamped envelope expense		4,370 92
Telephone expense		37,310 09
Telegraph expense		2,790 31
Advertising expense		9,870 29
Donations		3,450 95
Subscriptions to associations, etc.		3,631 00
Newspapers and periodicals		1,213 18
Mail room expense		1,610 35
Scrip ticket orders		4,137 75
Bond expense, commissions, etc.		15,167 28
Repairs to head office furniture, etc.		238 81
Publishing finance reports		1,375 15
Head office building expense		12,319 83
Exchange and collections		958 87
Automobile expense		8,862 38
Stationery and printing		36,568 64
Magazine expense		4,739 09
Railroad company expense		945 15
Plant appraisement		35,493 54
Sundries		24,840 71
Panama-Pacific International Exposition subscription		20,200 00
Rate cases		684 78
Public accountants		8,252 75
Total		$571,655 63
Electric Department:		
Civil engineering department	$869 62	
Commercial department	16,506 67	
Electric distribution department	6,902 65	
Electrical construction department	1,339 79	
Operating and mechanical department (hydroelectric)	25,817 73	
Operating and mechanical department (steam electric)	7,537 20	
Chief engineer (hydroelectric)	958 51	
Total		$69,962 17
Electric, gas and steam departments—Industrial department		1,438 61
Electric and gas departments—Appliance department		11,635 06
Gas department—Gas engineer		10,599 10
Total		$665,290 57

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If the entire general administrative expenses charged to operation in the year 1913 had been charged to construction, and had been added to the amount of $211,862.65, which was the total amount actually charged to construction, the resulting total of $887,153.22 would amount to only 8.77 per cent of the total sum expended for additions and betterments in the year 1913. To assume that the entire expenditures charged to operation should have been charged to construction, is to make an assumption which is very obviously contrary to the fact, for the reason that it is clear that the major portion of the amount charged to operation should properly be charged to that account, for the reason that the Pacific Gas and Electric Company is a going concern, conducting operations in at least thirty counties of the state. The addition has been made simply to show that even under the violent assumption that the entire amounts charged to operation for general administrative expenses should be charged to construction, these amounts when added to the amounts actually charged to construction would yield a total for all overhead expenditures, except a portion of interest during construction and insurance, which is but a fraction of the amounts claimed by the experts of Pacific Gas and Electric Company in this case in applying the hypothetical reproduction value new theory.

I desire now to direct my attention to particular items generally included under the head of overhead charges. It would seem that if one third of the administration expenses incurred during the year 1913 and one half of the legal expenses were charged to construction, at least the proper amount would be so charged. An allowance must also be made for organizing a construction force.

Referring now to engineering and superintendence, the Pacific Gas and Electric Company's annual report for the year 1913 contains the following item: Engineering and superintendence, 1913 (electric), $154,587.22.

This amount, which includes the entire amount charged to engineering and superintendence under the head of electric construction during the year 1913, amounts to 1.94 per cent of the entire capital expenditures for additions and betterments in that year, amounting to $7,969,891.23.

In making allowance for fire and casualty insurance, it must be borne in mind that the plant of the Pacific Gas and Electric Company was almost entirely constructed while the rates for casualty insurance were considerably less than they are at the present time. A demand for the allowance of present rates, while, as a matter of fact, Pacific Gas and Electric Company paid considerably less than present rates is, of course, unfair and unreasonable. The Commission will make an allowance based on the amounts which were paid by Pacific Gas and Electric

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Company for injuries and damages over a series of years, as shown by the evidence in this case.

J. G. White & Company made an allowance ranging from one half of 1 per cent to 1½ per cent for taxes during construction. The entire non-operating taxes paid by Pacific Gas and Electric Company during the year 1913 amounted to $13,078.38, or .132 per cent on the net cost of additions and betterments during 1913, including real estate.

Contingencies is an item which is dependent more largely upon labor cost than upon material cost. While the defendant in this case has cited instances where the actual cost of different units of plant has exceeded the estimated reproduction cost, it has not called attention to instances where the appraised value is far in excess of the actual cost. As an example, I desire to draw attention to the fact that the price allowed by J. G. White & Company on the Folsom development for labor was four and one half times its actual cost, as shown by the prison records. Likewise, in the Electra system, the evidence shows that the estimated reproduction cost greatly exceeds the original cost, and there is no reason to assume that the same condition will not hold good for other hydro-electric developments. In estimating the cost to reproduce transmission lines new, 10 per cent was added by J. G. White & Company to both labor and material unit prices before the application of the regular overhead percentages. Defendant urged that the 10 per cent added to labor covers an assumed loss in time, loss in boarding house operations and miscellaneous losses, and that the corresponding 10 per cent on material covers store room expenses, breakage and lost materials. In this connection it may be well to note that many of the items on which 10 per cent has been added, are not subject to loss or breakage. These items include approximately one half of the transmission line costs. There can be no question but what this miscellaneous 10 per cent is excessive and, in major portion, unwarranted as an allowance over and above the regular or proper overhead expense. Attention should also be drawn to the fact that it is one thing to estimate contingencies on a new job which is still to be performed and an entirely different matter to estimate them after the work has been entirely performed, when a large portion of the records of construction are available, and when engineers are presenting an estimate of reproduction value new. While accepting, for the purposes of this case, the estimated reproduction value of the physical items of the property as of December 31, 1911, as presented by J. G. White & Company, including the allowance of 10 per cent hereinbefore referred to, the Commission must necessarily allow a considerably less additional item for contingencies than that allowed by J. G. White & Company.

One of the most important overhead items is interest during construction. J. G. White & Company estimated this item on the theory that

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it would take at least a year to reconstruct all the properties of Pacific Gas and Electric Company, and that as to certain portions of the hydro-electric properties the period would run up to three years. An allowance was made for interest at the rate of 6 per cent per annum on one half the construction time as to each different class of construction. While such an allowance might be correct on the theory followed by J. G. White & Company, it is entirely at variance with the facts. As already pointed out, by far the larger portion of the plant of Pacific Gas and Electric Company was constructed by that company as an operating company while already a going concern, and was constructed in relatively brief periods of time. The different units, as completed, have been placed in operation and have started earning revenue. It follows that it would not be fair, in making an allowance for interest during construction, to assume, entirely contrary to the fact, that the plant is all constructed as a single development and that no portion thereof is placed in operation and earns revenue in less than one year's time. The relatively small charges made by Pacific Gas and Electric Company on its books for interest during construction during the year 1913, during which year the expensive Spalding development was completed, show clearly that the amounts estimated by J. G. White & Company for interest during construction, while they may be logical enough under the theory adopted by that company, should not apply in a rate-fixing inquiry.

The following table shows the maximum overhead charges for construction which I find could properly be made on construction during 1913, after making the necessary adjustments in the charges which Pacific Gas and Electric Company charged to operating expense instead of to construction:

TABLE No. IV.

Maximum Overhead Percentages Applicable to Construction during 1913.

	Total to both operation and construction	Construction		Per cent
Administration	$588,763 98	(⅓)	$196,254 66	1.98
Legal	39,288 78	(½)	19,644 39	.20
Engineering and supervision	163,330 80	(¾)	122,498 10	1.33
Injuries and damages	112,098 23	(a)	60,148 29	.65
Non-operating taxes	13,078 38		13,078 38	.13
Total				4.29
Interest (estimated)				3.00
Miscellaneous (estimated maximum, including contingencies already contained in construction costs shown and organization)				4.71
Total				12.00

NOTE.—(a) Average for seven years.

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The foregoing percentage is applicable to capital expenditure of over ten million dollars. This expenditure was incurred under conditions similar to those obtaining with reference to the expenditure of over thirty-eight million dollars of capital since the year 1906. In my opinion, this percentage is a reasonable percentage to be applied to the estimated reproduction value of the property as of December 31, 1911, as reported by J. G. White & Company, and this percentage will be used in this case.

4. Depreciation Annuity.

An allowance will be made under the head of depreciation annuity sufficient to provide with a reasonable margin of safety for the replacement of the different portions of the property at the expiration of their useful life. If property replaced has a salvage or scrap value, such value must be deducted from the total cost of replacement before the actual loss occasioned thereby can be determined. The remainder or net cost of the replacement must be provided out of the depreciation reserve. The reserve will be established on the sinking fund basis, as hereinbefore explained, and it will be assumed that the moneys in the fund earn but 6 per cent interest, although we shall allow to the defendant a return on its property of 8 per cent. While the amount allowed is considerably less than that urged by Mr. Vincent, the defendant's expert engineer, it is evident that Mr. Vincent's allowances are entirely too high. In his estimate of the cost of energy delivered to substations he has provided a total depreciation annuity of $615,347.00 for the year 1913, which amount, although applied to far less than one third of the entire system of Pacific Gas and Electric Company, is almost as large as the average normal and extraordinary repairs for the entire system from the years 1909 to 1913, inclusive, which average amounts to $669,997.56. This comparison is all the more striking when it is remembered that the properties as to which Mr. Vincent was making his estimates are, as a whole, subject to far less deterioration or depreciation than any other portion of defendant's properties, and include also the larger portion of appreciation in values claimed by the defendant. It would be far wiser for the utilities of the state, instead of trying to establish excessive depreciation funds, to deal with the Commission with absolute frankness, and, after assisting the Commission to ascertain the real facts, to ask frankly for a margin in the rate of return which will enable them to earn a profit in excess of the actual necessary expenditures, including the cost of money.

5. Rate of Return.

Defendant has filed in this case as Exhibit No. 60, an affidavit prepared by Mr. A. F. Hockenbeamer, its second vice-president and treasurer, which affidavit was filed by defendant in the case of *Pacific Gas and Electric Company* vs. *City and County of San Francisco*, now

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pending in the District Court of the United States, in and for the Northern District of California. In this affidavit, after referring to the financial condition of Pacific Gas and Electric Company and to certain issues of securities authorized by this Commission with respect to various public utilities, Mr. Hockenbeamer reaches the conclusion that it has cost Pacific Gas and Electric Company from 6.1 per cent to 10.75 per cent per annum to borrow money on secured obligations for capital expenditures, and that unless Pacific Gas and Electric Company is able to derive profits from the operation of its business equivalent to at least 8½ per cent per annum upon the money invested or to be invested in its enterprise, it will be unable to obtain the capital necessary to carry on its business. This affidavit is confidently relied upon by the defendant in this proceeding and demands consideration.

I shall take the case of a public utility whose funds are derived in part from the sale of bonds and in part from the sale of stock. I shall assume, as a normal case, that in order to secure each $100.00 to be invested, the utility secures $75.00 from the sale of bonds and $25.00 from the sale of stock. If the utility's bonds bear interest at the rate of 5 per cent, run for thirty years and are sold at 85 per cent of their face value, this being the condition which obtains with reference to Pacific Gas and Electric Company's present general and refunding bonds, the company would be paying for its money, considering both the interest and discount, at a rate of 6.1 per cent per annum. The $75.00 to be derived from the sale of bonds would accordingly cost the company each year $4.575. If an allowance of 8 per cent is made by the rate-fixing authority, this would leave a difference of $3.425 to pay dividends on stock and to yield a net profit in excess of interest and dividend requirements. This sum of $3.425 would yield interest at the rate of 13.7 per cent per annum on the sum of $25.00 to be derived from the sale of stock. While it must be freely admitted that the stockholder, by reason of the fact that he takes the risk of the business and has no security, is entitled to a rate of return in excess of that to which the bondholder is entitled, no reasonable person will contend that it is necessary for a company such as the Pacific Gas and Electric Company to offer to its stockholders a rate of return of 13.7 per cent per annum in order to induce them to supply the necessary funds in addition to those derived from the sale of bonds. The conclusive answer to any such claim is that Pacific Gas and Electric Company is selling to its stockholders preferred stock bearing interest at the rate of 6 per cent per annum, which stock is being sold for 82.5 per cent of par. If an allowance of 8 per cent were made by the rate fixing authority on moneys derived from the sale of stock, the sum of $2.00 would be necessary on each $25.00 derived from this source. By adding this sum to the sum of $4.575 necessary in connection with the bonds, the total cost of the money derived from the

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issue of both stock and bonds would be $6.575, which sum falls short in the amount of $1.425 of the allowance which would be made to the company if a return of 8 per cent is granted. I desire to make it perfectly clear that this Commission, in permitting the Pacific Gas and Electric Company to earn a return of 8 per cent on the fair and reasonable value of its property, is allowing more than is necessary to secure all the company's capital, both from the sale of stock and bonds, under proper financing, and that the amount so allowed in excess may well be said to amount to $1.425 on each $100.00 of value.

What has been said is based on the assumption that the utility does not have bonds outstanding in excess of the value of the property, as utilities frequently do, contrary to all other business experience, but that there is a normal relationship between the face value of the bonds and the value of the property and that the utility's funds have been secured in part from the sale of bonds and in part from the sale of stock.

Mr. Hockenbeamer, in his affidavit, also refers to the provisions of this company's general and refunding mortgage to the effect that no additional bonds can be issued at any time until the company's net profits during a given time, available for the payment of bond interest, have been at least one and one half times the amount of the interest on all the outstanding bonds of that issue. One and one half times $4.575 amounts to $6.8625, which is still considerably below the sum of $8.00 which will be allowed by this Commission. While the Commission does not feel bound, in establishing a rate of return, by such provisions as money lenders may insist on inserting in bond mortgages, I simply desire to draw attention to the fact that under the provisions of Pacific Gas and Electric Company's own mortgage, the allowance herein made is considerably more than sufficient to meet the requirements of the bond mortgage. I draw attention to these matters in order to show conclusively the invalidity of any claim which may be made to the effect that the rate of return herein established is not sufficient to enable the Pacific Gas and Electric Company to secure all the funds which the company needs for additions and betterments in this state.

The bonds which have heretofore been issued by Pacific Gas and Electric Company and by its predecessors, bear interest ranging from 6 per cent to 4 per cent. I do not have available the discounts, if any, at which these various bonds were sold, except with reference to the last two issues. Of the general and refunding thirty-year 5 per cent bonds hereinbefore referred to, bonds of the face value of $24,986,000.00 have been sold at a discount of $4,410,223.01, so that the cost of the money thus secured, including both interest and discount, has been 6.1 per cent per annum. The next largest outstanding issue is that of the California Gas and Electric Corporation's unifying and refunding thirty-

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year bonds, bearing interest at the rate of 5 per cent per annum. These bonds, amounting to a face value of $20,407,000.00, were sold at a discount of $2,147,962.05, so that the money thus secured cost the utility in the neighborhood of 5.6 per cent per annum. These two issues together represent considerably more than one half the entire outstanding bonded indebtedness of defendant and its predecessors, amounting to a total on December 31, 1913, of $75,485,800.00. The next largest issue, that of the San Francisco Gas and Electric Company, of which issue $7,237,000.00 are outstanding, bears interest at the rate of 4½ per cent per annum.

While Mr. Hockenbeamer draws attention to the fact that Pacific Gas and Electric Company, during the last year, sold seven million dollars of its 6 per cent one-year gold notes in such a way that it paid 10.75 per cent for its money, defendant must not expect this Commission to consider this transaction as in any way a normal one. The price paid is the highest paid for money by any public utility on any authorization for an issue of securities made by this Commission since the effective date of the Public Utilities Act. The money was borrowed at a time of recognized financial stringency and at a time when Pacific Gas and Electric Company was spending millions of money in foundation expenses which could not be expected to yield an appropriate return for at least a number of years to come. Pacific Gas and Electric Company was compelled to have this money in order to complete the construction work in which it was engaged, and it paid what it had to pay in view of the conditions prevailing. It is not necessary to comment further on this transaction, but it will be clear that the price paid for money on this particular issue of notes can not be controlling on this Commission in establishing a proper rate of return.

I find that a rate of return amounting to 8 per cent on the fair and reasonable value of the property of Pacific Gas and Electric Company, engaged in the public utility business herein referred to, is more than 1 per cent in excess of such return as is necessary to enable Pacific Gas and Electric Company to secure the money necessary for its development, and that it is at least a fair and reasonable and liberal return on the company's investment.

The following table shows a fair and reasonable value, on the evidence in this case, to be assigned to Pacific Gas and Electric Company's hydroelectric properties, and the amount which should be set aside each year for depreciation annuity:

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TABLE No. V.

Hydroelectric Plants. Capital and Depreciation Annuity.

	Capital	Depreciation annuity (interest 6 per cent)
Lands, water rights, etc.	$855,122 40	
Right of way	5,161 00	$17 77
Roads, bridges, etc.	544,251 60	96 53
Reservoirs	85,532 82	15 17
Dams	2,998,863 06	531 88
Ditches	2,867,328 91	508 55
Pipe lines	147,736 74	508 85
Flumes	750,613 73	20,388 79
Tunnels	418,892 83	74 29
Forebays	408,171 46	72 39
Penstocks	1,324,768 16	4,562 89
Power plant buildings	627,850 92	2,162 50
General structures	537,530 61	9,797 42
Turbines and water wheels	672,097 01	12,250 12
Electric generators	530,627 61	9,671 60
Accessory equipment	171,336 02	4,657 69
Miscellaneous power plant equipment	53,821 14	1,463 10
Tools and appliances	28,933 94	2,195 16
Horses, wagons and harness	5,087 76	386 00
Automobiles, motorcycles, etc.	1,300 22	230 65
Furniture and fixtures	9,646 25	262 23
Undistributed construction expenditures	105,848 73	364 57
Total hydroelectric plant	$13,149,922 92	$70,218 15
General capital (prorated)	78,642 47	3,286 94
All departments non-landed capital (prorated)	168,499 35	9,242 49
All departments landed capital (prorated)	164,601 23	
Supply department (prorated)	16,397 29	133 63
Construction capital	1,062,372 18	6,068 27
Working capital	34,738 82	
Total hydroelectric capital	$14,675,174 26	$88,949 48

Investment per kilowatt of maximum capacity, $177.65.

The item of "undistributed construction expenditures, $105,848.75," represents undistributed construction expenditures incurred during 1912 and 1913. The items "general capital," "all departments capital" and "supply department" are prorated here, as elsewhere, on an investment basis. The item "construction capital" amounts to one half of the estimated expenditures for additions and betterments on hydroelectric plants during the ensuing year, based on the construction work in progress on December 31, 1913. The item for working capital amounts here, as elsewhere, to twice the sum of one month's expenditures for maintenance and operation, as herein established.

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The following table shows the cost of producing electric energy at Pacific Gas and Electric Company's hydroelectric plants, together with the average energy cost per kilowatt hour deliverable at substations:

TABLE No. VI.

Hydroelectric Plants. Cost of Service.

Capital	$14,675,174 26
Fixed charges—	
Interest at 8 per cent	$1,174,013 18
Depreciation annuity	88,949 48
Maintenance	67,220 42
Total	$1,330,183 08
Operation expense—	
Operation	$141,212 50
General expense (prorated)	90,416 71
Taxes	75,456 13
Total	$307,085 34
Total cost of service	$1,637,268 42
Energy generated (estimated for 1914), kilowatt hour	398,852,635
Net station output, kilowatt hour	396,159,519

Average energy cost per kilowatt hour deliverable at substation, $.0048813.

The amounts allowed for maintenance and operation are in excess of the expenditures actually incurred for these purposes in the year 1913. The additional amount has been added because of the completion of the Lake Spalding development and of the additional expense to be incurred for operation and maintenance in connection with this development. The general expenses have been prorated on the investment basis. Taxes are taken on the basis of 4.6 per cent of gross revenue.

The following table shows the fair and reasonable value on the evidence in this case to be assigned to the steam plants of Pacific Gas and Electric Company, together with a proper allowance for depreciation annuity:

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TABLE No. VII.

Steam Plants. Capital and Depreciation Annuity.

	Capital	Depreciation annuity (interest 6 per cent)
Lands	$373,809 00	
Power plant buildings	621,833 26	$2,141 77
General structures	37,640 03	686 05
Steam producers, etc.	1,472,560 32	26,839 95
Steam engines, etc.	1,917,194 17	34,944 16
Electric generators	276,499 00	5,039 67
Accessory electric equipment	233,968 73	6,360 34
Miscellaneous power plant equipment	48,375 36	1,315 06
Fuel oil tanks	82,412 28	283 85
Tools and miscellaneous	390 33	29 61
Furniture and fixtures	3,079 90	83 73
Miscellaneous	3,024 00	10 42
Undistributed construction expenditures	15,495 68	53 37
Total steam plants	$5,086,282 06	$77,787 98
General capital (prorated)	$30,142 00	$1,259 82
All departments non-landed capital (prorated)	64,582 25	3,542 45
All departments landed capital (prorated)	63,088 18	
Supply department (prorated)	6,284 73	51 22
Construction capital	100,000 00	1,529 00
Working capital	104,902 94	
Total steam plant capital	$5,455,282 16	$84,170 47

The following table shows the cost of producing electric energy in defendant's steam plants:

TABLE No. VIII.

Steam Plants. Cost of Service.

Capital	$5,455,282 16
Fixed charges—	
Interest at 8 per cent	$436,422 57
Depreciation	84,170 47
Maintenance at 1.25 per cent	64,841 14
Total	$585,434 18
Operation expense—	
Operation, 5 per cent kilowatt hours	$564,576 50
General expense (prorated)	34,654 81
Taxes	58,420 37
Total	$657,651 68
Total cost of service	$1,243,085 86
Energy generated (estimated for 1914), kilowatt hours	112,915,299
Net station output (estimated for 1914), kilowatt hours	112,350,723
Average energy cost per kilowatt hour deliverable to transmission lines	$0.012482

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The following table shows the fair and reasonable value, on the evidence in this case, to be assigned to defendant's transmission lines:

TABLE No. IX.

Transmission Lines. Capital and Depreciation Annuity.

	Capital	Depreciation annuity (Interest 6 per cent.)
Lands and rights of way	$636,271 01	$1,442 86
General structures	3,276 17	59 71
Substation buildings	79,145 98	272 60
Substation equipment	682,084 62	12,432 17
Poles and fixtures	1,074,139 85	46,148 01
Towers and fixtures	743,523 83	2,560 91
Wires and insulators	2,363,106 55	8,139 22
Line switches, etc.	38,229 45	1,642 44
Roads, bridges, etc.	20,861 52	71 85
Tools and appliances	3,224 64	244 65
Horses, wagons and harness	625 38	47 45
Automobiles, motorcycles, etc.	3,302 31	585 82
Furniture and fixtures	623 20	16 94
Total transmission lines	$5,618,414 51	$73,664 63
General capital (prorated)	$31,861 52	$1,331 68
All departments non-landed capital (prorated)	68,266 49	3,744 51
All departments landed capital (prorated)	66,687 19	
Supply department (prorated)	6,643 26	54 14
Construction capital	70,000 00	912 80
Working capital	38,656 13	
Total transmission capital	$5,930,529 10	$79,707 79

The following table shows the cost of service in connection with the transmission of electric energy:

TABLE No. X.

Transmission Lines. Cost of Service.

Capital	$5,930,529 10
Fixed charges—	
Interest at 8 per cent	$474,442 33
Depreciation annuity	79,707 79
Maintenance 1.25 per cent	71,936 82
Total	$626,086 94
Operation expenses—	
Operation	$160,000 00
General expense (prorated)	36,631 78
Taxes	41,318 63
Total	$237,950 41
Total cost of service	$864,037 35
Energy received by transmission lines (estimated for 1914), kilowatt hours	540,322,388
Average energy cost per kilowatt hour received by transmission lines	$0.0015991
Average energy cost per kilowatt hour deliverable to substations	0.0017767

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The following table shows by way of general summary the cost of production and transmission of all energy purchased by Pacific Gas and Electric Company, also the cost of the energy to be purchased during next year, as estimated by defendant, and also the average cost of energy deliverable to substations as estimated for 1914, and the demand cost and energy cost for the same year:

TABLE No. XI.

General Summary. Cost of Production and Transmission.

Item	Hydroelectric plants	Steam plants	Total production	Transmission	Total cost to substations
Capital	$14,675,174 26	$5,455,282 16	$20,130,456 42	$5,930,529 10	$26,060,985 52
Demand cost—					
Interest at 8 per cent	1,174,013 18	436,422 57	1,610,435 75	474,442 33	2,084,878 08
Depreciation	88,949 48	84,170 47	173,119 95	79,707 79	252,827 74
Maintenance	67,220 42	64,841 14	132,061 56	71,936 82	203,998 38
Total fixed	$1,330,183 08	$585,434 18	$1,915,617 26	$626,086 94	$2,541,704 20
Correction (a)	133,326 54		133,326 54		133,326 54
Balance fixed	$1,196,856 54		$1,782,290 72		$2,408,377 66
Energy cost—					
Operating expense	$141,212 50	$564,576·50	$705,789 00	$160,000 00	$865,789 00
General expense (prorated)	90,416 71	34,654 81	125,071 52	36,631 78	161,703 30
Taxes	75,456 13	58,420 37	133,876 50	41,318 63	175,195 13
Total operation	$307,085 34	$657,651 68	$964,737 02	$237,950 41	$1,202,687 43
Correction (b)	30,708 53		30,708 53		30,708 53
Balance	$276,376 81		$934,028 49		$1,171,978 90
Purchased Energy.					
Great Western Power Company					$506,000 00
Northern California Power Company, Cons.					217,000 00
Snow Mountain Water and Power Company					101,000 00
Miscellaneous (estimated)					200 00
Total purchased					$824,200 00
Total energy cost					1,996,178 90
Grand total (corrected)					$4,404,556 56

Note.—Corrections (a) and (b) are for distribution direct from hydroelectric plants.
Total energy deliverable to substations (estimated for 1914), 602,360,837 kilowatt hours.
Maximum simultaneous demand of substations (estimated for 1914), 119,630 kilowatts.
Average total cost of energy deliverable to substations, $0.007312 per kilowatt hour.
Expressed as a "two-part rate" the cost of energy deliverable to substations is as follows, based on the maximum simultaneous demand of all substations: Demand cost, $20.13 per kilowatt; energy cost, $.003314 per kilowatt hour.

In estimating the total energy deliverable at substations for the year 1914, it is assumed that there will be an increase in business amounting to 10 per cent. It will be noted that the average cost of energy deliverable to substations is $.007312 per kilowatt hour, and that, expressed as a "two part rate," the cost of energy deliverable at substations is as follows, based on the maximum simultaneous demand of all substations:

Demand cost	$20 13	per kilowatt
Energy cost	003314	per kilowatt hour

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As the cost of the service is thus determined in the form of a demand cost and an energy cost, the various load factors of the different towns served by defendant will be automatically taken care of, so that it is not necessary to follow Mr. Vincent in his computations, in which he varies the cost of energy deliverable at substations according to load factor.

Having thus obtained the cost of delivering electric energy at the substation in Antioch, it now becomes necessary to ascertain the cost of distribution.

II.

COST OF DISTRIBUTION.

As already stated, the substation in Antioch, in addition to serving the residence and commercial customers in the city and the street lighting system, also serves the 11 kilovolt rural line and the California Paper and Board Mills. It thus becomes necessary to make certain segregations so as to ascertain the proportion of the value of the substation and of the operation, maintenance and depreciation expenses thereof which are properly chargeable to the Antioch service. The following table shows the fair and reasonable value, on the evidence in this case, to be assigned to that portion of defendant's substation and distribution system which is chargeable to Antioch, excluding the California Paper and Board Mills, together with a proper depreciation annuity:

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TABLE No. XII.

Capital and Depreciation Annuity, Town of Antioch.
(Excepting California Paper and Board Mills.)

	Capital	Depreciation annuity (interest 6 per cent.)
Real estate[1]	$750 00	
Substation building[2]	943 00	$17 19
Substation equipment[3]	14,436 00	263 12
Pittsburg-Antioch tie line[4]	2,361 00	64 18
Poles and fixtures	6,710 00	288 28
Wire and insulators, etc.	3,988 00	25 77
Pole transformers	2,329 00	42 45
Municipal street lights	924 00	39 70
Electric services	1,781 00	76 52
Electric meters	4,393 00	119 43
General structures	1,556 00	28 36
Tools and appliances	375 00	28 45
Testing instruments, etc.	150 00	4 08
Furniture and fixtures	351 00	9 54
Materials and supplies	2,829 00	
General capital (prorated)	268 00	11 20
All departments non-landed capital (prorated)	574 00	31 48
All departments landed capital (prorated)	559 00	
Supply department (prorated)	60 00	49
Total tangible capital	$45,337 00	$1,050 24
Construction capital	1,177 95	
Working capital	1,004 92	
	$47,519 87	
Correction in general capital (prorated to California Paper and Board Mills)	132 24	2 24
	$47,387 63	$1,048 00

NOTE.—[1], [2], [3], and [4], only a portion chargeable to local distribution in Antioch, part chargeable to 11 kilovolt line and California Paper and Board Mills.

The table annexed to defendant's brief herein does not make the proper segregations as between the service to the town of Antioch and the 11 kilovolt line, and for that reason must be disregarded. The table also includes certain transmission capital which has been covered in the foregoing tables by the cost of service found at the Antioch substation. It also includes an excess of $2,000.00 for the cost of resetting meters, which cost should not be considered in this proceeding.

The difference between the value herein found and the estimate attached as Appendix "B" to the petition herein consists largely in the fact that defendant claims in its Appendix "B" an allowance of $6,764.59 for organization and development cost, while no allowance for this item has been made in the preceding tables. Defendant had available the actual development costs in connection with the Antioch plant. Notwithstanding this fact, defendant chose not to present the actual facts but rather relied on a highly theoretical estimate of what the organization and development costs might have been under a state

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of facts varying widely from those which actually surrounded the construction of this plant. Theoretical estimates of this kind will have very little weight with this Commission, particularly when the utility has in its possession the actual facts and fails to present them.

I find that the allowance hereinbefore made as the basis of return for the distributing system at Antioch is a fair and reasonable allowance and that no item should be added under the evidence in this case, for cost of developing the business or so-called "going concern value."

The following table shows the cost of service for distribution in Antioch, excepting again the California Paper and Board Mills:

TABLE No. XIII.

Local Cost of Service at Antioch.

	Substation (a)	Street lighting	Distribution	Service	Total
Investment	$21,889 70	$1,640 02	$12,832 93	$8,024 98	$47,387 63
Interest at 8 per cent	1,751 18	371 20	1,026 63	642 00	3,791 01
Depreciation	397 81	144 18	292 25	213 76	1,048 00
Maintenance	56 17	48 49	173 14	186 19	463 99
Total fixed cost	$2,205 16	$563 87	$1,492 02	$1,041 95	$5,303 00
Operation expense	$1,409 86	$164 52	$1,561 71	$2,672 69	$5,808 78
General expense (including insurance, taxes, etc.	443 14	82 91	325 05	373 45	1,224 55
Total operation cost	$1,853 00	$247 43	$1,886 76	$3,046 14	$7,033 33
Total local cost	$4,058 16	$811 30	$3,378 78	$4,088 09	$12,336 33

NOTE.—(a) Only a portion chargeable to local distribution.

The operation and maintenance charges shown in the foregoing table are the actual charges as shown on the books of Pacific Gas and Electric Company in 1913, with the necessary segregations as between the different classes of business served out of the substation, together with the elimination of certain abnormal expenses, such as the warehouse expense and the reduction of certainly clearly excessive expenditures such as the fire insurance reserve.

Table No. XIII shows the entire local cost of the service to the town of Antioch and to the inhabitants thereof other than the California Paper and Board Mills. To obtain the complete cost of service it is necessary to add the cost of production and of transmission to the Antioch substation, with proper correction for the local transformer losses, the load factor and the diversity factor. Table No. XI shows that the demand cost for simultaneous demand of all substations on the transmission system is $20.13 per kilowatt, and that the energy cost is $.003314 per kilowatt hour, delivered at substation. After proper corrections, as already noted, and further corrections for distribution

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losses and diversity factors between the different classes of service, it appears that the total average cost of service in Antioch, exclusive of the California Paper and Board Mills, based upon the present load factors and on the assumption that the business will increase 10 per cent, is 5.546 cents per kilowatt hour, delivered at consumer's meters, and 3.75 cents per kilowatt hour for street lighting under present conditions.

Having thus determined the average cost of service, we are now in a position to establish the rates for the different classes of service to the inhabitants of the town and to the town itself for its street lighting. No request has been made that the Commission establish the rate to be paid by California Paper and Board Mills, and the existing rate charged to that company will be permitted to continue.

After a thorough and painstaking inquiry into the exhaustive evidence which has been presented in this case, I find that the rates shown in the following table are fair and reasonable rates to be charged for electric energy delivered by defendant in the town of Antioch:

TABLE No. XIV. RATES.

Schedule "A." General Lighting.

Applicable to all lighting installations served from the local secondary distribution lines.

C. R. C. Classification: Service 1121; Rate 1111; Serial No. 140701-1.

	Per kilowatt hour
First 20 kilowatt hours per month	$0 07
Next 980 kilowatt hours per month	04
Over 1,000 kilowatt hours per month	03

Minimum charge $1.00 per month per meter.

Schedule "B." Municipal Street Lighting.

Applicable to all street and other public outdoor lighting.

C. R. C. Classification: Service 5235; Rate 1617; Serial No. 140701-2.

3¾ cents per kilowatt hour deliverable into street lighting circuits.

Schedule "C." Miscellaneous Commercial and Industrial Power.

Applicable to all power installations served from the local secondary distribution lines.

C. R. C. Classification: Service 1161; Rate 1114; Serial No. 140701-3.

	Per kilowatt hour
First 50 kilowatt hours per horsepower per month—	
Less than 1 horsepower	$0 07
1 horsepower and less than 3 horsepower	05
3 horsepower and less than 9 horsepower	04
9 horsepower and less than 27 horsepower	03
27 horsepower and less than 81 horsepower	02½
81 horsepower and over	02
Next 50 kilowatt hours per horsepower per month	01½
Over 100 kilowatt hours per horsepower per month	01

Minimum charge: First 10 horsepower $1.00 per horsepower per month.
Over 10 horsepower 75 cents per horsepower per month.

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I desire to draw attention to the more important changes which the rates herein established will cause in the existing rate schedule. The top rate for lighting is reduced from 8 cents per kilowatt hour for the first 30 kilowatt hours per month to 7 cents per kilowatt hour for the first 20 kilowatt hours. The steps have also been altered, so that whereas heretofore a consumption of over 30 kilowatt hours per month entitled the consumer to a rate of 7 cents per kilowatt hour for the next 70 kilowatt hours per month, he will now be entitled, after consuming 20 kilowatt hours per month, to a rate of 4 cents per kilowatt hour for the next 980 kilowatt hours per month. Whereas heretofore the lowest rate has been 3 cents per kilowatt hour for commercial lighting over 1,050 kilowatt hours per month, the distinction between residence lighting and commercial lighting has been abolished, for the reason that the service is exactly the same in either case, and it has been provided that the rate of 3 cents per kilowatt hour shall apply to all electric energy consumed for lighting purposes per month in excess of 1,000 kilowatt hours.

With reference to municipal street lighting, the rate heretofore has been the flat sum of $128.00 per month. The rate herein established, being 3¾ cents per kilowatt hour delivered into street lighting circuits, will result in a saving to the town of Antioch of about $570.00 per year.

The power rate schedule has been revised so as to be put on a more logical and scientific basis, but there will be no substantial change in the revenue to be derived from this class of business.

While the reductions herein established are amply justified by the evidence, and are less than could reasonably have been established, I desire to draw attention to the fact that reductions in electric lighting rates in this State have generally been followed by increases in business, so that the reductions in revenue have generally been made up within relatively short periods of time. Mr. A. F. Hockenbeamer, second vice-president and treasurer of defendant, testified before this Commission only a few days ago that the reductions in lighting rates made by Pacific Gas and Electric Company in 1911 and the early part of 1912 were made up, as far as the gross revenue is concerned, by the end of the year 1912.

The following table shows the estimated annual revenue which will be derived by defendant from the sale of electric energy in the town of Antioch, except California Paper and Board Mills, at the rates

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herein established, on the assumption that the business shows a normal increase of only 10 per cent per annum:

TABLE No. XV.
Estimated Annual Revenue.

Revenue from local lighting service	$9,439 10
Revenue from power service (exclusive of California Paper and Board Mills and 11 kilovolt rural line)	970 05
Revenue from street lighting	1,065 00
Total	$11,474 15

The total revenue of $11,474.15 will be more than sufficient to take care of every element of expense hereinbefore determined, including the return on the investment, in connection with the defendant's service of electric energy within the town of Antioch.

I submit herewith the following form of order:

ORDER.

Public hearings having been held in the above entitled proceeding, and the case having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates charged by Pacific Gas and Electric Company for electric energy, delivered to the town of Antioch and to the inhabitants thereof, except California Paper and Board Mills, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are fair, reasonable, and liberal rates to be charged by Pacific Gas and Electric Company for the respective classes of service to which they apply.

Basing its order on the foregoing finding of fact and on the further findings which are contained in the opinion which precedes this order,

It is hereby ordered that Pacific Gas and Electric Company be and the same is hereby directed to establish and to file with this Commission within twenty (20) days from the date of this order, the following rates to be charged for electric energy sold to the town of Antioch and to the inhabitants thereof, apart from the California Paper and Board Mills:

RATES.

Schedule "A." General Lighting.

Applicable to all lighting installations served from the local secondary distribution lines.

C. R. C. Classification: Service 1121; Rate 1111; Serial No. 140701-1.

	Per kilowatt hour
First 20 kilowatt hours per month	$0 07
Next 980 kilowatt hours per month	04
Over 1,000 kilowatt hours per month	03

Minimum charge $1.00 per month per meter.

Schedule "B." Municipal Street Lighting.

Applicable to all street and other public outdoor lighting.

C. R. C. Classification: Service 5235; Rate 1617; Serial No. 140701-2.

3½ cents per kilowatt hour deliverable into street lighting circuits.

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Schedule "C." Miscellaneous Commercial and Industrial Power.

Applicable to all power installations served from the local secondary distribution lines.

C. R. C. Classification: Service 1161; Rate 1114; Serial No. 140701 3.

	Per kilowatt hour
First 50 kilowatt hours per horsepower per month –	
Less than 1 horsepower	$0 07
1 horsepower and less than 3 horsepower	05
3 horsepower and less than 9 horsepower	04
9 horsepower and less than 27 horsepower	03
27 horsepower and less than 81 horsepower	02½
81 horsepower and over	02
Next 50 kilowatt hours per horsepower per month	01½
Over 100 kilowatt hours per horsepower per month	01

Minimum charge: First 10 horsepower $1.00 per horsepower per month.
Over 10 horsepower 75 cents per horsepower per month.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of July, 1914.

CONCURRING OPINION.

ESHLEMAN, *Commissioner.*

I concur in the conclusion reached by Mr. Commissioner Thelen generally in his comments on the important principles discussed in the opinion, but I do not feel that I am so entirely in accord with some of his announced theories that I should, because of my concurrence in his results, fail to comment on those matters with which I do not entirely agree. Particularly do I desire to point out what appears to me to be dangerous in his suggested doctrine of agency.

While I do not for a moment question the power of any governmental agency to impose conditions *in advance* on any business requiring governmental sanction to be carried on, on the acceptance of which conditions may depend the right of any person or corporation to conduct such business, yet I do not conclude that this power to impose conditions in advance necessarily implies the power to impose added conditions on a business already operating under governmental sanction after such business has assumed all the obligations required by law to be assumed at the time of the initiation of its enterprise. For example, I am very sure that a condition in a franchise to the effect that never shall the agency accepting such franchise capitalize it or claim value for it at more than its cost, or any value at all for that matter, would be good and enforceable against the agency accepting such franchise. Likewise do I believe that a condition in a franchise requiring the one accepting the same to account as agent to the authority granting such franchise would be equally valid. It would have simplified matters immeasurably, both for public utilities and public authority,

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had such public authority been farseeing enough to have attached conditions to all gifts, such as I here suggest, but failing to do so in advance, I very much doubt the power of the state to impose them now. I, of course, should not be understood here as urging that the state lacks all power to impose conditions on corporations or persons engaged in any kind of business at a subsequent stage of the existence of such business, which it did not impose at the initial period. All agencies, of whatsoever character, embark on their enterprises in full legal contemplation of the power of the state, should the need arise, to exercise every governmental function which the state may at any time exercise, and the subsequent necessity for the government to act in any particular way it may be called upon under its power to act is as a condition subsequent accepted by all who live under government. The general authority of a state of this Union, under its police power, or the federal government under any of its delegated powers to impose conditions upon a business at any stage of its existence, is not that to which I here refer. All readily agree that such authority is a general condition imposed at the beginning and always existing. But unless referable to the police or other general power of the State of California, this state has no power to impose conditions on any enterprise which has lawfully acquired its property and initiated its business except as a condition precedent imposed upon such enterprise in the beginning, unless the owners of such enterprise voluntarily accept such condition. In other words, the state has the right to say in advance upon what conditions a utility enterprise may initiate and conduct its business and may, as a part of the contract, impose conditions on the acceptance of which the agency so accepting becomes bound thereby, but failing to do so in advance the only conditions that may be imposed thereafter are those conditions authorized and justified by the police power. It is my belief, therefore, that the failure of the state to impose conditions in advance divests it thereafter of the power of imposing such conditions unless the police power authorizes such imposition.

I feel it best to meet this squarely rather than delude ourselves longer in the belief that we as a people may continue safely to divest ourselves of things of value with no return until all the common store is exhausted, in the belief that our mistaken generosity will be reciprocated by those accepting our gifts. They will not reciprocate, and under the law they may not be forced to give back that which we have so foolishly and bounteously granted. Better that we be on our guard for the future than indulge ourselves in dreams of how to retake that which is already lost. Some of us fondly hoped, and cogently, we thought, reasoned that our water rights given for nothing to our water companies could not by them be used as a basis to tax the consumer by reason of such gift. But the Supreme Court of the United States

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calmly, within the very recent months, dispels our illusions and holds that the public service water company owns these water rights and may charge its consumers therefor. It is the part of wisdom now, even though the day be late, to recognize that when we give something to a man it belongs to him and he will make us buy it back or pay for the use of it once we have parted with it; and it makes no difference if the donor be the state or the nation and the one receiving the gift be a public utility corporation. The only safe course is not to be so generous or so to condition the gift that we will be protected.

The main reason then why I do not accept the able reasoning of Mr. Thelen in this regard is that it will merely serve longer to keep us lulled to sleep until all our valuable public stores and privileges shall have been given away, when we shall awaken to the painful fact that they are no longer ours, just as we are now made to know that the waters of our rivers and streams, incalculable in value, are for nothing the prize of the alert private interest merely because public authority slept.

The authorities cited do not at all convince me that the Supreme Court will ever hold, when the matter is directly before it, that the owners of a public utility property hold such property as an agent at all. In fact that court has in several well considered cases definitely decided that such is not its view. Therefore, if we are to escape excessive unearned increments and rates based upon the gift we have made, it must be on some other theory than that the owner of public utility property is in any proper sense, as to such property, an agent. And it behooves us to see to it that when in the future concessions are made of rights to water, for power or irrigation or other purposes, or when gifts are made of any sort, that the taker of such concessions or gifts takes them with the condition attached that we shall not be the more burdened by reason of our generosity, and by the imposition of conditions in advance, that the taker of any privilege, be it franchise, water right or anything else of value, takes the same as an agent or so conditioned that it may not base rates upon such gift.

There is in addition to this objection another reason why this theory can not be accepted. If legal, as I am sure it is not, it works beautifully as to those agencies that are now subject to regulation, but it fails as to other agencies that shall hereafter engage in business which, but for this, would be subject to regulation. The recent case of the Del Mar Light, Water and Power Company against this Commission indicates the danger to regulation of urging this doctrine. A public utility business is no different from any other business, except that it occupies such a position in society by reason of its monopolistic character that the state, under its police power, may regulate it both as to the price for which and those to whom it shall accord its service. It is abun-

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dantly established, both on authority and reason alike, that monopoly is at the bottom of regulation. Every business, therefore, which starts on its course, starts with the prospect that ultimately it may occupy such a relation to its patrons that it may be regulated, and this is a general condition subsequent, such as has already been discussed, and a condition which exists independently of any affirmative act on the part of those in charge of such business and irrespective of any desire or agreement on their part whatsoever. On this condition all property of all owners is held.

It is unnecessary here to discuss the distinction between the natural monopoly, so-called, which becomes the public utility and other monopolies. It is sufficient to have in mind the fact that public utility enterprises, such as the defendant here, are subject to regulation as to their rates and service because of their monopolistic character. If this be true, then it follows that the going into the business is all the affirmative act done by this agency which subjects it to regulation, and the reserve power of the State of California under its police power, which authorizes it to regulate monopolies, and the condition of society that of necessity constitutes an agency, such as this one, as to some of its patrons at least, a monopoly, do the rest; and except for these propositions of law and fact the Pacific Gas and Electric Company holds its property under no different tenure and performs its corporate function under no different warrant than a grocery store which sells, among other commodities, kerosene, and so may be said to be in the lighting business.

I reiterate that this is true unless there are conditions imposed in the franchises, upon the permits and the rights accorded to this corporation, which affect its title to any of the property held by it.

When, however, it is admitted, as here, that an agency may be denied the right to say to whom and for what price it shall sell its commodity or perform its service, it, of necessity, follows that although its property is private property held in ownership just as other private property, yet the same rules of value are inapplicable. I have made this statement in every case where I have discussed value, and in every case some utility representative becomes aggrieved and immediately asks "why?" And "why" echoes from every superficial critic who views as an anarchist every one who would sanely regulate, and who would prefer to look at the problem squarely as it is rather than attempt to distort it into what he would like to have it be. My only answer is that economic necessity, not this Commission nor any other governmental agency, has made it so. I agree that in every respect possible utility property should be viewed just as any other property, but it seems to me that every one who thinks at all must realize that if you would permit a monopoly to get all from its patrons it desires to get,

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the property devoted to such business is worth more to its owners than if you compel such monopoly to accept a less amount. And just as soon as you make the earning power of a property dependent upon rates and rules imposed artificially, I might say, by outside authority, instead of naturally by those in control of such business, you have made the commercial value of such property dependent upon what such outside authority shall do. To fix rates we are told we must know the value. But the final beneficial value to the owner of such property can not be known or even exist until after the rates are fixed. Therefore, of very necessity this first value which must be known before rates are fixed can not mean the same as the resultant, and we must find it by other rules. The courts have called it "fair value," and, as Mr. Thelen points out, many elements enter to make it up. That the confusion existing with reference to the proper basis for determining this so-called value is due to the fact that it is misnamed, I have often heretofore pointed out. That it is not value at all, as commercially understood, is capable of demonstration. If we have two hydroelectric enterprises fully developed, with an equally accessible market, with exactly equal capacity, we would be free to say that they were of equal value independent of cost or anything else, if we have regard to the ultimate meaning of value, for they "avail" the same. Value, in its ultimate analysis, is always comparative. In its commercial aspect, however, we have referred it to money and have made it dependent primarily upon the earning power of the property valued. Value as thus understood, and as blindly sought after in all these rate inquiries by the utilities and many commissions and courts, is something that can not be of aid in the fixing of rates. The license to regulate arises from the fact that the state has a right to inquire, in the case of a monopoly, into equitable matters and has a right to determine what rates, in view of all the facts in any case, ought to be accorded. And it is just because it is known that human nature will exact more than it should, if given the chance, and that in the case of a monopoly it usually has the chance, that intervention by the state in such cases is warranted under the police power.

What I have here said merely indicates that these problems can not be solved by rules of general application. When we modify the usual rule of value, which is the result of using the property to the highest advantage for the owner, by injecting the equitable elements and entrust the determination of such equitable elements to a public officer, then we have—as I suggested in the *Monterey Gas* case—put such property at the mercy finally of the state. If the first public officer fails in his duty, perhaps another so empowered will prevent an abuse of discretion by the first; but in any event the determination of what ought to be accorded, when we have taken away the power from the owner to take

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what he *can* regardless of what he *ought*, is in the hands of some representative of the state, and whosoever this may finally be, the fate of such regulated industry is in his hands. There is present always, in the case of a monopoly, but the alternative "take all you can" or "take only what you ought." Public policy, operating through the police power, lawfully and rightfully says to agencies, such as the defendant here, "you shall not take all you can and the government will say what you ought to take," and on this command depends the value of this property.

I thoroughly agree with Mr. Thelen, as the Commission has often said before, that cost is the most important element. Justice dictates that the sacrifices of those who serve us should at least be rewarded, and hence what has been paid out by a utility should appeal strongly to us. Then, too, honest mistakes should have a large appeal to a tribunal alive to equitable consideration. Likewise the fact that the same state which empowers this Commission to act has by permission allowed securities to get into the hands of innocent purchasers, if it plainly appears that such is the case, should have weight if this can be done without injury to other innocent parties. But to urge that every artificial device that can be thought of for enhancing the sum upon which an earning shall be demanded, to the end that the agency in question can justify rates as high or higher than could be exacted were no regulation imposed, is merely to urge that regulation is unnecessary and our work futile. It is my singular experience that in no case brought to my attention has the utility before the Commission failed, as a result of the activity of its sworn experts, to justify rates as high, and usually higher, than those it had voluntarily accorded. Certainly this is a tribute to the generosity of those in charge of utilities beyond the generosity of the rest of us, and a demonstration that all expense and time expended in the regulation of monopolies is worse than wasted.

It will be seen that although I reject Mr. Thelen's doctrine of agency, that I come to the same point in deciding that no one consideration shall be controlling in determining the fair amount upon which an earning shall be allowed (erroneously called "value"), and that we are agreed that all of the facts which the history of the agency in question develops should be considered by a tribunal which is endeavoring to do justice both to the utility and the public. We can not escape the conclusion that justice, as humanly possible, is not arithmetical, but the result of a conscientious endeavor on the part of those for the time in authority to make "ought" and "must" synonymous, and I therefore conclude that it is impossible in advance to state rules of general application for determining the sum upon which a utility may be permitted to earn. But we should always have in mind two things: *first*, that under private ownership we must be so generous, and

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no more so, as is necessary to get our public utility work done and money invested in such enterprises; and, *second*, we must always have in mind the comparison between the conditions that would exist if public ownership were resorted to and those that confront us under private ownership, and if it be found that the amounts exacted under private ownership in payment for doing the business are excessive in comparison with the amounts that could be reasonably expected to be exacted under public ownership, then the latter will inevitably result.

I, therefore, concur in the order and in the general conclusions reached by Mr. Thelen in his opinion, with the modifications I have here set out.

Dated at San Francisco, California, this 6th day of July, 1914.

Decisions Nos. 1656 and 1657, grade crossings; not printed. See end of volume.

DECISION NO. 1658.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF BONDS.

Application No. 808.

Decided July 9, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER NO. 2.

Application having been made by the San Diego and Arizona Railway Company for a modification of the order made herein on the 9th day of February, 1914, and for the approval by the Commission of certain contracts entered into by the applicant, and it appearing to the Commission that the said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that said contracts entered into with Robert Sherer & Company for certain work, as outlined in the application, are hereby approved.

The order of the Commission made on the 9th day of February, 1914, in this case shall in all particulars remain in full force and effect.

Dated at San Francisco, California, this 9th day of July, 1914.

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Decision No. 1659.

IN THE MATTER OF THE APPLICATION OF DAVIES WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED AND FIFTY THOUSAND DOLLARS.

Application No. 1192.

Decided July 9, 1914.

Application of Davies Warehouse Company for permission to issue bonds of the face value of $250,000.00, proceeds to be used in the construction of two five-story warehouses on sites already leased in the city of Los Angeles, granted, provided that none of such bonds may be issued until applicant shall have made arrangements to dispose of at least $125,000.00, face value, thereof.

Williams, Goudge & Chandler and *C. L. Chandler*, for Applicant.

Report of the Commission.

Thelen, *Commissioner.*

This is an application for authority to issue bonds of the face value of $250,000.00 for the purpose of erecting two five-story and basement, class A, concrete fireproof warehouses at the corner of East Second street and Central avenue, in Los Angeles.

A public hearing was held in this proceeding in the city of Los Angeles on July 8, 1914.

Davies Warehouse Company was incorporated under the laws of this state on April 22, 1902, with power, among other matters, to conduct a general warehouse and commission business, and to store goods, wares and merchandise of every kind for hire. The authorized capital stock consists of $50,000.00, divided into 500 shares of the par value of $100.00 each. Of the shares so authorized, 400 shares have been issued.

Applicant at the present time owns a one and two-story brick warehouse on the site on which the new warehouses are to be built. The property on which these warehouses are located is held by applicant under a ninety-nine-year lease, commencing January 1, 1914. The property is advantageously located for warehouse purposes, but is at present not being utilized to its best advantage for the reason that the present warehouse is not fireproof and is an old structure, built many years ago.

Applicant now proposes to erect two five-story and basement, class A, concrete fireproof warehouses, at a cost of $125,000.00 each, face value of bonds, and has already made arrangements for leasing all the space in one of these warehouses at a minimum rental of 3 cents per square foot.

A portion of the materials wrecked from the present old buildings will be used in reconstructing an existing building on the premises,

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so that after the two new warehouses have been constructed there will be three warehouses on the premises, the two new ones and one reconstructed old one. As security behind the bonds of the face value of $250,000.00, there will be the two new buildings, which will cost in the neighborhood of $225,000.00, plus the old building, which will be estimated at about $65,000.00, plus personal property of the value of between $5,000.00 and $6,000.00, and the value of the lease. With reference to the value of the lease, Mr. Charles T. B. Jones, applicant's secretary, testified that the existing rental is based on a value of $3.85 per square foot, whereas property of a similar character in the vicinity is generally valued at $5.00 per square foot.

Applicant has as yet made no definite arrangement for the sale of its bonds, but expects to issue 6 per cent bonds and to sell them at not less than 90 per cent of their face value. Applicant presented figures to show that the rental from the first building alone will be sufficient to meet operating expenses as well as interest on the entire proposed bonded issue of $250,000.00. The proposed sinking fund of $10,000.00 per year, beginning with the year 1920, will have to be taken care of out of the rentals of the second new building or of the reconstructed old building.

While this Commission, in authorizing the issue of bonds, of course, cannot guarantee the success of the enterprise, I find that this is a case in which the Commission's authorization should be granted. I find that the purposes for which the proceeds of the bonds herein authorized are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and submit herewith the following form of order:

ORDER.

Davies Warehouse Company having applied to the Railroad Commission for an order authorizing the issue by said company of bonds of the face value of $250,000.00, said bonds to be payable on July 1, 1944, and to bear interest at the rate of 6 per cent per annum, payable semiannually, and secured by trust deed or mortgage upon all the property of the company, and the Railroad Commission finding that the purposes for which the proceeds of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by Davies Warehouse Company of $250,000.00, face value, of bonds of said company, to be numbered consecutively from 1 to 250, both numbers inclusive, maturing on the first day of July, 1944, to bear interest at the rate of 6 per cent per annum, payable semiannually, under and in pursuance of the terms

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of a deed of trust or mortgage to be executed by Davies Warehouse Company to Citizens' Trust and Savings Bank of Los Angeles, California, in substantially the form of the draft of trust deed or mortgage attached to the petition herein and marked "Exhibit F," upon the following conditions and not otherwise, to wit:

1. Davies Warehouse Company shall sell said bonds hereby authorized so as to net said company not less than 90 per cent of the face value of the principal thereof, besides interest accrued thereon.

2. Davies Warehouse Company shall apply the proceeds from the sale of said bonds only for the purpose of erecting two five-story and basement, class A, concrete fireproof warehouses, complying in general with the schedule attached to the petition herein and marked "Exhibit E."

3. Davies Warehouse Company shall not issue any of said bonds hereby authorized until it has made arrangements for the sale of at least $125,000.00, face value, thereof and has received from this Commission a supplemental order authorizing the issue thereof.

4. Davies Warehouse Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission, stating the sale or sales of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. Davies Warehouse Company shall file with the Railroad Commission a certified copy of the deed of trust or mortgage to Citizens' Trust and Savings Bank, when said deed of trust or mortgage has been executed.

6. This order shall not become effective until Davies Warehouse Company has paid the fee specified by section 57, as amended, of the Public Utilities Act.

7. This order shall apply only to such bonds as may have been issued on or before the first day of July, 1915. If applicant is unable to dispose of all of its bonds by said date, it may hereafter apply for an extension of time.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of July, 1914.

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Decision No. 1660.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF NINE PROMISSORY NOTES, AGGREGATING TWO HUNDRED AND FORTY-NINE THOUSAND NINE HUNDRED AND SIXTY-SEVEN DOLLARS AND THIRTEEN CENTS.

Application No. 1197.

Decided July 9, 1914.

Applicant authorized to issue notes aggregating the face value of $249,967.13, said notes to be issued in renewal of notes of a like amount now due, and for a period not to exceed one year, to bear the same rate of interest, and to be issued to holders of present outstanding notes.

A. E. Peat, for Applicant.

Report of the Commission.

Thelen, *Commissioner.*

This is an application for an order authorizing the issue of promissory notes for the purpose of renewing nine notes now due or shortly to become due. The notes will be specified in the order herein.

A public hearing was held in Los Angeles on July 8, 1914. The evidence shows that the outstanding nine notes or the proceeds thereof were used to pay for construction material and that the larger portion of this material is properly chargeable to capital account.

Applicant's floating debt on June 22, 1914, was as follows:

Accruals	$152,839 60
Notes payable	1,056,712 68
Accounts payable	406,108 85
Total	$1,615,661 13

This is a large floating indebtedness. Applicant is now taking steps for junior financing for the purpose of paying off this indebtedness and to provide funds for new construction. In the meantime, the notes herein referred to have matured or are about to mature, and must be renewed, either in whole or to the extent to which they can not now be paid.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied for an order authorizing the issue of promissory notes in renewal of the notes hereinafter set forth, and a public hearing having been held on said application, and the Railroad Commission finding that the application should be granted,

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It is hereby ordered that San Joaquin Light and Power Corporation be and the same is hereby authorized to issue its promissory notes, for terms not to exceed one year from the date of maturity of the respective notes to be renewed, at rates of interest and amounts not to exceed those now in effect as to each of said notes, respectively, and payable to the same payees as at present, in renewal of the following notes:

Payee.	Amount.	Maturity.
Westinghouse Electric and Manufacturing Company	$15,000 00	Aug. 15, 1914
Western Electric Company	14,552 34	July 15, 1914
National Conduit and Cable Company	70,000 00	July 20, 1914
First National Bank of Taft	3,000 00	June 8, 1914
Kaspare Cohn, Inc.	17,114 79	May 1, 1914
Bank of Central California	10,000 00	June 26, 1914
General Electric Company	10,000 00	Aug. 5, 1914
Carl Raiss and Company	100,000 00	June 1, 1914
John A. Roebling's Sons Company	10,000 00	Sept. 2, 1914

on the following conditions and not otherwise, to wit:

1. San Joaquin Light and Power Corporation shall issue said notes so as to net not less than the face value thereof.

2. San Joaquin Light and Power Corporation shall report to the Railroad Commission, within ten days after the issue of the respective notes hereby authorized, the fact and the date of issue, the face value of the respective notes, the rate of interest and the application of the proceeds, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The San Joaquin Light and Power Corporation is hereby authorized, during the period of one year from the date of this order, to issue further notes in renewal of those herein authorized, on the same terms, provided that the combined terms of the notes hereby authorized and those issued in renewal thereof, respectively, shall not exceed one year from the date of this order.

4. This order shall not become effective until San Joaquin Light and Power Corporation has paid the fee specified in section 57, as amended, of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of July, 1914.

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Decision No. 1661—Not issued.

Decision No. 1662.

IN THE MATTER OF THE APPLICATION OF PASADENA PARK IMPROVEMENT COMPANY FOR AUTHORITY TO TRANSFER ITS WATER SYSTEM TO PASADENA CONSOLIDATED WATER COMPANY, AND OF PASADENA CONSOLIDATED WATER COMPANY TO SUPPLY CONSUMERS OF WATER IN THE TERRITORY HERETOFORE SUPPLIED BY PASADENA PARK IMPROVEMENT COMPANY, AND TO CHARGE SAID CONSUMERS THE REGULAR RATES NOW CHARGED THE OTHER CONSUMERS ON THE SYSTEM OF PASADENA CONSOLIDATED WATER COMPANY.

Application No. 1180.

Decided July 9, 1914.

Pasadena Park Improvement Company authorized to transfer gratis, to the Pasadena Consolidated Water Company, its water system serving the district of Pasadena Heights Tract, and the latter company authorized to serve consumers in this district, and to place into effect October 1, 1914, its regular meter rates in lieu of the flat rates now in effect, provided that the latter company shall not urge its right to a return upon the value of the property donated by the Pasadena Park Improvement Company.

J. S. Coulston, for Pasadena Consolidated Water Company,

Leo G. MacLaughlin, for Pasadena Park Improvement Company.

Report of the Commission.

Thelen, *Commissioner*.

This is an application by Pasadena Park Improvement Company for an order authorizing the company to transfer its entire water system to Pasadena Consolidated Water Company and of the latter company to serve the territory heretofore served by Pasadena Park Improvement Company at the water rates regularly charged to consumers of water from the system of Pasadena Consolidated Water Company.

Pasadena Park Improvement Company was incorporated on August 23, 1905, for the purpose primarily of engaging in the real estate business and particularly to develop and sell a tract of some 320 acres commonly known as Pasadena Heights Tract. While under its articles of incorporation the company had no power to engage in the water business, the company nevertheless piped its entire tract, installed a well and reservoir, and proceeded to deliver water to purchasers of its lots. Under the constitution and statutes of this State, the company is clearly a public utility, and hence must receive this Commission's authority, as provided by section 51 of the Public Utilities Act, before it can transfer its water system. The company has a total of some ninety-two customers who take water primarily for domestic purposes and pay therefor flat rates ranging from $1.25 to $2.00 per month, the rate depending upon the number of rooms in the house. About one half the customers have been charged at the flat rate of $1.50 per

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month. Mr. Coulston estimates that the entire system in its present condition is worth about $18,000.00.

During the last two years the improvement company has been unable during portions of the summer months to deliver to its customers any water from its own system, but has called upon the Pasadena Consolidated Water Company, which company, merely as a matter of courtesy, has supplied the necessary water. Pasadena Consolidated Water Company is now unwilling to continue this service, and has notified the improvement company of its position.

The evidence shows that the well of the improvement company sands up, that its bore is not straight, and that it can not be relied upon to yield an adequate supply of water to the customers of the improvement company, particularly during the summer season.

Under the circumstances, the improvement company and the Pasadena Consolidated Water Company have agreed that the improvement company shall convey its entire water system as a gift to the Pasadena Consolidated Water Company, and that the latter shall agree to deliver to the customers of the improvement company an adequate supply of water at the same rates which the Pasadena Consolidated Water Company now charges to its own customers, or such rate as may hereafter be established by the Railroad Commission. Pasadena Consolidated Water Company has already at its own expense installed a meter for each customer of the improvement company, and will repair and renew the system as it becomes necessary to do so.

Pasadena Consolidated Water Company owns 7,000 shares of the capital stock of Precipice Canyon Water Company and has sunk two wells from which it can pump a maximum of 140 miner's inches of water per day. The company has considerably more water than it needs, and is able and willing to give to the customers of the improvement company a better and much more dependable service than they have been getting.

The proposed transfer would undoubtedly be of advantage to the improvement company, because it will relieve the company of its responsibility as a water utility and will improve the sale of its remaining lots by the establishment of good, dependable water service. The transfer would be advantageous to Pasadena Consolidated Water Company, because it would give the company a field for disposing of some of its surplus water and a considerable additional revenue without a commensurate increase in expense.

The present customers of the improvement company would benefit by a better and more dependable service. Their rates, however, would in some cases be increased. As hereinbefore stated, the improvement company has been charging flat rates of from $1.25 to $2.00 per month, depending upon the number of rooms in the house. The rates of

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Pasadena Consolidated Water Company for a similar service—i. e., domestic service, including the irrigation of small patches of lawn, flowers and shrubbery—are all on a meter basis and are as follows: $1.50 for the first one thousand cubic feet of water, the minimum charge to be $1.50 per month for each meter in use, whether one thousand cubic feet of water are used or not, with an additional rate of 12 cents per 100 cubic feet for the second one thousand feet in any one month, and 8 cents per 100 cubic feet for all additional water.

During June, 1913, out of sixty-eight active customers of Pasadena Consolidated Water Company, only eighteen used more than 1,000 cubic feet of water. These consumers use the water under substantially similar conditions, apart from the measurement of the water, as obtain on the Pasadena Heights Tract. If the same conditions obtained on the Pasadena Heights Tract, most of the present consumers would continue to receive their water for $1.50 per month throughout all except the summer months. A revision of the minimum may hereafter be necessary.

Several residents of Pasadena Heights, however, appeared at the hearing and presented water bills showing a consumption of from 1,310 to over 2,000 cubic feet of water during a period of only two weeks during the latter half of June. If this consumption were continued, the result would be bills considerably in excess of $1.50 per month. Mr. M. H. Salisbury, city commissioner of Pasadena, explained that the city of Pasadena has had a similar experience with patrons whom it has changed from a flat basis to a meter basis. It is undoubtedly true that the existence of a flat basis encourages waste of water, and that when the basis is changed to a meter basis it takes some time before the consumption is brought down to a normal metered consumption.

None of the consumers of the improvement company's system who were present at the hearing which was held in Pasadena on July 7, 1914, voiced any objection to the transfer. They welcomed the change to the larger and more adequate water supply of the Pasadena Consolidated Water Company, but were very naturally solicitous about the effect on their monthly bills. I find that the contemplated transfer is in the public interest, and am of the opinion that it should be allowed. I also am of the opinion that Pasadena Consolidated Water Company should charge to all its customers a uniform rate for the same service. At the same time, I realize that a hardship may be worked on the existing patrons of the improvement company unless they are given some time in which to adjust themselves to the changed conditions. I shall accordingly recommend that while the transfer may be effected at once, the old rates shall continue in effect until October 1, 1914, after which time the regular rates of Pasadena Consolidated Water Company

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will become effective. I desire to draw attention also to the fact that the order in this case is by no means conclusive on the question of rates, and that if after October 1, 1914, the consumers to be taken over from the improvement company believe that their rates are unfair, any twenty-five of them may join in a formal complaint to the Railroad Commission, as provided by section 60 of the Public Utilities Act, whereupon the case will be set down for hearing and carefully and fully investigated.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the proceeding having been submitted and being ready for decision, and the Railroad Commission finding that public convenience and necessity will be served by granting the application subject to the conditions herein specified,

It is hereby ordered as follows:

1. Pasadena Park Improvement Company, a public water utility, is hereby authorized to convey to Pasadena Consolidated Water Company its entire water system located on Pasadena Heights, Los Angeles county, California, and described as follows: The west twenty-five (25) feet of lot one hundred and twenty-three (123) and the east twenty-five (25) feet of lot one hundred and twenty-two (122) of Tract No. 208, Los Angeles County, as per map recorded in Book 14, page 98 of Deeds, records of Los Angeles County, California.

Also all pipe lines laid in the streets in Tract No. 208 and Pasadena Heights Tract or any resubdivision thereof by Pasadena Park Improvement Company, and all buildings, pumping machinery and pipe lines belonging to said Pasadena Park Improvement Company which are used in supplying domestic water to the residents of said tracts.

2. Pasadena Park Improvement Company shall, after execution, file with the Railroad Commission a certified copy of its deed of conveyance.

3. Pasadena Consolidated Water Company is hereby authorized to serve water to the territory heretofore served by Pasadena Park Improvement Company, and to charge therefor after October 1, 1914, the regular rates of said company as the same are now or may hereafter be established. Until October 1, 1914, Pasadena Consolidated Water Company shall continue to charge the patrons of Pasadena Park Improvement Company the rates heretofore charged by said company, notwithstanding the installation of meters.

4. This order is made subject to the power of the Railroad Commission to establish, from time to time, just and reasonable rates to be charged by Pasadena Consolidated Water Company, and on the condition that Pasadena Consolidated Water Company shall not in any rate inquiry urge that it is entitled to a return on the value of the

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property which is now being donated to it by Pasadena Park Improvement Company, further than the extent, if at all, to which the Railroad Commission may find that it may be fair and equitable to allow a return thereon.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of July, 1914.

DECISION NO. 1663.

CALISTOGA ELECTRIC COMPANY

vs.

NAPA VALLEY ELECTRIC COMPANY.

Case No. 508.

IN THE MATTER OF THE INVESTIGATION INTO THE RATES OF NAPA VALLEY ELECTRIC COMPANY FOR ELECTRIC ENERGY.

Case No. 538.

Decided July 11, 1914.

After consideration of the various contentions of respondent contained in its petition for rehearing, *Held*, That the rates for electric energy heretofore established by the Commission are just and reasonable in every particular. Application for rehearing dismissed.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

OPINION ON PETITION FOR REHEARING.

In its petition for rehearing in the above entitled cases, Napa Valley Electric Company urges certain matters to which I desire to give consideration.

The point that this Commission has no jurisdiction over the rate to be charged by Napa Valley Electric Company to Calistoga Electric Company, for the reason that this rate was established by contract, has been several times decided by this Commission adversely to petitioner's contention. See application of *Murray and Fletcher,* volume 2, Opinions and Orders of the Railroad Commission of California, page 464, and *Town of Ukiah* vs. *Snow Mountain Water and Power Company,* Decision No. 1309, decided on February 27, 1914. There is no merit in petitioner's point that Calistoga Electric Company is not a public utility but is merely an agent or middleman selling electric energy on behalf of petitioner. The mere fact that it buys its electric energy from another company under a contract has no bearing on its own

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status, which is determined by its own acts in selling electric energy for compensation to every one who wants electric energy in Calistoga. The evidence shows that under the provisions of section 23 of article XII of the constitution and section 2 of the Public Utilities Act, Calistoga Electric Company is clearly a public utility.

Petitioner complains that no specific allowance was made for cost of developing the business. I desire to draw attention to the fact that petitioner introduced no evidence whatsoever of the cost of developing the business, but that this Commission, in order to be absolutely fair to Napa Valley Electric Company, estimated the return on the basis of the estimated reproduction value new of the company's property, although it is not new and although it is not operated at 100 per cent efficiency.

Petitioner alleges that it can find no allowance for the moneys expended in securing franchises. Petitioner will find a specific allowance for the proportion of franchises chargeable to the electric business set forth as item No. 2 on page 5 of the printed opinion.

There is no merit in petitioner's claim that the value of the Oak Knoll line should be considered in estimating the basis on which petitioner is to be allowed a return. Petitioner has entirely misconstrued this Commission's opinion in Application No. 83, *Snow Mountain Water and Power Company,* reported in Volume 1, Opinions and Orders of the Railroad Commission of California, page 784. This Commission did consider the Oak Knoll line as part of the Snow Mountain Water and Power Company's transmission capital, and for this reason it would seem obviously unfair to again include the same line as part of the capital of Napa Valley Electric Company. Napa Valley Electric Company does not own this line and is clearly not entitled to a return thereon. The company's expense in operating and maintaining the line has been included under the head of operating expenses.

With reference to the segregation of operating expenses as between petitioner's electric business and its gas business, this segregation is one which it was necessary to make and fairly represents the portions of operating expenses chargeable to each class of business, except that if any leniency has been shown it has been shown to the gas business. An analysis of this company's gas business reveals the fact that 29.92 gallons of oil were used per thousand feet of gas manufactured in 1913, whereas the average amount should not have exceeded 13 gallons, as shown by the records of comparable gas companies in California. It may well be that the cost of oil sold by this company, as shown by its annual report, was included in the cost of oil reported for the gas business. If the normal economy of oil were shown the company would save some $761.54 over the cost as reported for 1913. I would also suggest to petitioner that if it would reduce the price of gas and enter upon an active campaign for business, particularly fuel business, it may very

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well happen that this company will be able to materially increase its revenues from the gas business.

The Commission allowed a rate of return of 8 per cent on the estimated cost of reproducing the property new, which sum is fair and reasonable under the facts of this case.

If a normal increase of business is allowed for, the rate established for the street lighting service in St. Helena and for the service to the Calistoga Electric Company would be materially in excess of the cost of service instead of being an insignificant amount less than the cost. Comparison of the consumption of the Calistoga Company for January and February, 1913, and the corresponding months of 1914, shows that whereas the consumption in January and February, 1913, was 4,560 and 3,360 kilowatt hours, respectively, the consumption during the corresponding months in 1914 had increased to 5,400 and 5,040 kilowatt hours, respectively, a very material increase. The Commission, in establishing the rate, charged no increase in business to petitioner, as it should have done if petitioner were limited to all to which it is entitled.

A normal increase in business will take care of any small items in operating expenses which may possibly have been omitted. The claim, now for the first time asserted, of $1,000.00 for litigation is entirely out of the normal. A normal increase in business will take care of a proper allowance for legal expenses.

Petitioner complains that the increase which the Commission made in the rate for seasonal agricultural power will result in a loss of a considerable portion of this business. The rate established by the Commission apportioned to this business its fair share of the investment and operation and maintenance expenses. If petitioner desires to engage in this business at less than the fair return allowed by the Railroad Commission, in order to retain the business, and will file with this Commission an application for authority to reduce the rates established by the Commission, the Commission will be glad to entertain such application and to give due consideration to it.

After a careful consideration of all the grounds urged for rehearing, I find there is no merit in the application, and accordingly recommend that the application be denied.

I submit herewith the following form of order:

ORDER.

It is hereby ordered that the petition of Napa Valley Electric Company for a rehearing in the above entitled cases be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of July, 1914.

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Decision No. 1664.

IN THE MATTER OF THE APPLICATION OF CAMPBELL TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

Application No. 1147.

Decided July 11, 1911.

Applicant authorized to issue twenty-seven shares of its capital stock of the par value of $10.00 per share in lieu of stock heretofore issued without the Commission's consent, proceeds of which were used for extensions to system. Application to issue additional stock, denied without prejudice, pending the securing by applicant of a certificate of public convenience and necessity authorizing the extension of its system.

L. D. Bohnett, for Applicant.

Report of the Commission.

Gordon, *Commissioner.*

This is an application by Campbell Telephone Company for authority to issue twenty-seven (27) shares of its capital (common) stock in lieu of twenty-seven shares heretofore unlawfully issued, and to further issue additional stock from time to time as needed for the purpose of constructing lines and installing telephones for new subscribers.

The applicant is a California corporation and owns a system of rural or farmer lines which it is operating as a public utility in the vicinity of Campbell, Santa Clara County. It does not operate an exchange switchboard, but connects its lines with an exchange which is owned and operated by The Pacific Telephone and Telegraph Company in the town of Campbell. The Pacific Company performs the switching service and collects from the applicant a yearly switching charge for each of its subscribers.

The applicant, Campbell Telephone Company, has an authorized capitalization of ten thousand dollars divided into 1,000 shares of the par value of $10.00 each. Heretofore it has sold its stock at a price calculated to provide only sufficient money to construct the lines and purchase the telephones necessary to install service for those buying stock. This cost has been ordinarily $27.50, or in those cases where special equipment has been provided the cost has been $28.50, and in either case three shares of stock were issued for the amount paid. As of the date of this application, a total of 265 shares have been sold for the aggregate sum of $2,387.00, inclusive of the 27 shares which were unlawfully issued. This entire amount has been expended in constructing lines and in purchasing and installing telephones.

The application and the testimony show that the applicant was not aware that the law requires Commission approval for the sale of stock by public utilities, and since the entire proceeds from the sale of these

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27 shares have been expended in providing telephone service for their purchasers, I shall recommend that the reissue of these 27 shares be authorized.

So far as that portion of the application is concerned which seeks permission to issue and sell additional shares of stock, the testimony shows that The Pacific Telephone and Telegraph Company is by its lines serving certain portions of the territory which is also served by this applicant's lines, and that neither company has secured a certificate of public convenience and necessity authorizing extensions in this territory. I am accordingly of the opinion that permission for the issue and sale of additional stock by the applicant should be withheld until it has filed with the Commission the usual application for a certificate of public convenience and necessity and has received the Commission's order thereon.

The testimony shows further that the rate which the applicant pays to the Pacific Company for each of its subscribers contemplates a continuous day and night service, although continuous service is not maintained at the Campbell exchange. I would suggest to the applicant that this matter be formally directed to the notice of the Pacific Company and, if that company will not voluntarily grant a satisfactory adjustment, that the Commission be applied to for relief.

I recommend the following order.

ORDER.

Application having been made by Campbell Telephone Company for an order of this Commission authorizing it to issue 27 shares of its capital stock in lieu of an equal number of shares heretofore issued without the prior authorization of this Commission, in ignorance of the provisions of the Public Utilities Act, and for authorization to issue and sell additional shares from time to time as needed for the purpose of building lines and installing telephones for new subscribers; and the entire amount of money received from the sale of the said 27 shares heretofore issued having been used for purposes of building lines and installing telephones for the purchasers of said 27 shares of stock; and a hearing having been held, and it appearing to the Commission that the purposes for which the proceeds of the sales of the 27 shares of stock were not in whole or in part reasonably chargeable to operating expenses or to income; and it further appearing to the Commission that, as set forth in the opinion accompanying this order, the territory into which applicant desires to extend is served in part by lines owned and operated by The Pacific Telephone and Telegraph Company, and that applicant has not applied for a certificate of public convenience and necessity for authority to extend its lines, as provided by Section 50 (a) of the Public Utilities Act;

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It is hereby ordered that Campbell Telephone Company be and it hereby is granted authority to issue 27 shares of its capital stock upon the following conditions and not otherwise, to wit:

1. Said 27 shares of its capital stock shall be issued to the following persons in substitution for an equal number of shares shown to have been issued as follows:

Date	No. of Certificate	No. of shares	Issued to	Value
Jan. 14, 1913	85	3	S. G. Roy	$28 50
Mar. 6, 1913	87	3	A. S. Collins	27 50
Mar. 7, 1913	88	3	Mrs. N. P. Phillipi	27 50
May 31, 1913	93	3	Harry Baehr	28 50
June 23, 1913	94	3	Thos. Spellman	28 50
Sept. 30, 1913	84	3	G. H. Higbee	27 50
Oct. 6, 1913	96	3	F. and L. Downing	28 50
Dec. 26, 1913	98	3	A. Ferro	27 50
Jan. 10, 1914	99	3	E. A. Colby	28 50

2. Before said stock shall be issued, the certificates of stock in lieu of which said stock is hereby authorized to be issued shall be called in by applicant and cancelled.

And it is hereby further ordered that pending the application for and the issuance by the Commission of a certificate of public convenience and necessity permitting the construction of additional lines or the further extension of present lines into territory at present served by The Pacific Telephone and Telegraph Company, as more specifically referred to in the opinion accompanying this order, that portion of the application herein for authority to issue and sell additional shares of stock from time to time as needed for the purpose of constructing lines and installing telephones in new territory is dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of July, 1914.

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Decision No. 1665.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA DISPATCH LINE FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK, OF THE PAR VALUE OF ONE HUNDRED THOUSAND DOLLARS, AND OF A PROMISSORY NOTE OF THE FACE VALUE OF NINE THOUSAND THREE HUNDRED AND FIFTY-THREE DOLLARS AND TWENTY-FOUR CENTS.

Application No. 1194.

Decided July 13, 1914.

Applicant authorized to issue its capital stock of the par value of $100,000.00, to be delivered to California Wine Association in payment of eighty-five box and tank cars. Application to issue one-day note to cover balance of payment dismissed; as said note is to run for a period of less than one year, Commission's consent not necessary.

Pillsbury, Madison & Sutro and *Alfred Sutro*, for Applicant.

Report of the Commission.

THELEN, *Commissioner.*

This is an application for an order authorizing the issue by California Dispatch Line of its capital stock of the par value of $100,000.00 and a promissory note of the face value of $9,353.24, in payment for certain tank and other cars and apparatus and appliances appurtenant thereto, to be used in the shipment and transportation of wine or fermented or unfermented liquor or distilled liquor.

California Dispatch Line was incorporated under the laws of this State on April 11, 1914, for the purpose, among others, of owning, maintaining, and operating tank and other cars and machinery, apparatus, and appliances in connection with the shipment and transportation of wine or fermented or unfermented liquor, or distilled liquor or liquids of any kind, in tank or other cars. The corporation has an authorized capital stock consisting of 1,000 shares of the par value of $100.00 each. The corporation is a dispatch, car renting and car corporation, as those words are used in section 2 (*l*) of the Public Utilities Act, and is consequently a public utility subject to the jurisdiction of the Railroad Commission.

The corporation was incorporated primarily for the purpose of taking over the car business of the California Wine Association, and of thus segregating the association's utility business from its non-utility business.

California Dispatch Line now proposes to purchase from California Wine Association eighty-five box cars, insulated box cars, steel tank cars, and insulated steel tank cars, as the same are specifically set forth in the

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petition herein and in the order. The total present value of these cars is alleged by petitioner to be $109,353.24. Petitioner proposes to issue in exchange for these cars its entire capital stock, amounting to $100,000.00, at par, together with a one-day note, bearing interest at the rate of 6 per cent, for the balance of $9,353.24. As the promissory note is to run for a period of less than one year, and is not a renewal of a pre-existing note, it is not necessary to secure this Commission's consent to the issue of the note. With reference to the stock, I find that for the purposes of this application the value assigned by applicant to the cars which it desires to purchase may be assumed to be reasonable and that the application should be granted as prayed for.

Petitioner will shortly file with this Commission its rates for car rentals, as provided by the Public Utilities Act.

I find that the purposes for which petitioner desires to issue its capital stock are not in whole or in part reasonably chargeable to operating expenses or to income, and submit herewith the following form of order:

ORDER.

California Dispatch Line having applied to the Railroad Commission for authority to issue its entire authorized common capital stock, consisting of one thousand (1,000) shares of the par value of one hundred (100) dollars per share for the purpose hereinafter specified, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which California Dispatch Line desires to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that California Dispatch Line be and the same is hereby authorized to issue its entire authorized capital stock, consisting of one thousand (1,000) shares of the par value of one hundred (100) dollars each, at par, to California Wine Association, in return for

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a deed of conveyance conveying a good and marketable title to the following cars now owned by California Wine Association:

	Initial number	Kind	Amount
7	C. D. L. 101	Box car equipped, 6 wooden tanks	$1,265 19
8	C. D. L. 102	Box car equipped, 6 wooden tanks	1,267 02
9	C. D. L. 103	Box car equipped, 6 wooden tanks	1,130 18
10	C. D. L. 104	Box car equipped, 6 wooden tanks	931 10
11	C. D. L. 105	Box car equipped, 6 wooden tanks	935 66
12	C. D. L. 106	Box car equipped, 6 wooden tanks	1,121 73
13	C. D. L. 107	Box car equipped, 6 wooden tanks	1,085 66
14	C. D. L. 108	Box car equipped, 6 wooden tanks	1,085 66
15	C. D. L. 109	Box car equipped, 6 wooden tanks	1,081 10
16	C. D. L. 201	Insulated box car equipped, 6 wooden tanks	1,700 00
17	C. D. L. 202	Insulated box car equipped, 6 wooden tanks	1,700 00
18	C. D. L. 203	Insulated box car equipped, 6 wooden tanks	1,700 00
19	C. D. L. 204	Insulated box car equipped, 6 wooden tanks	1,700 00
20	C. D. L. 205	Insulated box car equipped, 6 wooden tanks	1,700 00
21	C. D. L. 206	Insulated box car equipped, 6 wooden tanks	1,700 00
22	C. D. L. 207	Insulated box car equipped, 6 wooden tanks	1,700 00
23	C. D. L. 208	Insulated box car equipped, 6 wooden tanks	1,700 00
24	C. D. L. 209	Insulated box car equipped, 6 wooden tanks	1,700 00
25	C. D. L. 210	Insulated box car equipped, 6 wooden tanks	1,700 00
26	C. D. L. 211	Insulated box car equipped, 6 wooden tanks	1,700 00
27	C. D. L. 212	Insulated box car equipped, 6 wooden tanks	1,700 00
28	C. D. L. 213	Insulated box car equipped, 6 wooden tanks	1,700 00
29	C. D. L. 214	Insulated box car equipped, 6 wooden tanks	1,700 00
30	C. D. L. 215	Insulated box car equipped, 6 wooden tanks	1,700 00
31	C. D. L. 251	Insulated box car (not equipped with tanks)	1,091 10
32	C. D. L. 252	Insulated box car (not equipped with tanks)	1,091 10
33	C. D. L. 253	Insulated box car (not equipped with tanks)	1,091 10
34	C. D. L. 254	Insulated box car (not equipped with tanks)	1,091 10
35	C. D. L. 255	Insulated box car (not equipped with tanks)	1,091 10
36	C. D. L. 256	Insulated box car (not equipped with tanks)	1,091 10
37	C. D. L. 257	Insulated box car (not equipped with tanks)	1,091 10
38	C. D. L. 258	Insulated box car (not equipped with tanks)	1,091 10
39	C. D. L. 259	Insulated box car (not equipped with tanks)	1,091 10
40	C. D. L. 260	Insulated box car (not equipped with tanks)	1,091 10
41	C. D. L. 261	Insulated box car (not equipped with tanks)	1,091 10
42	C. D. L. 262	Insulated box car (not equipped with tanks)	1,091 10
43	C. D. L. 263	Insulated box car (not equipped with tanks)	1,091 10
44	C. D. L. 264	Insulated box car (not equipped with tanks)	1,091 10
45	C. D. L. 265	Insulated box car (not equipped with tanks)	1,091 10
46	C. D. L. 266	Insulated box car (not equipped with tanks)	1,091 10
2	C. D. L. 267	Insulated box car (not equipped with tanks)	1,091 10
3	C. D. L. 268	Insulated box car (not equipped with tanks)	1,091 10
4	C. D. L. 269	Insulated box car (not equipped with tanks)	1,091 10
5	C. D. L. 270	Insulated box car (not equipped with tanks)	1,091 10
6	C. D. L. 271	Insulated box car (not equipped with tanks)	1,091 10
7	C. D. L. 272	Insulated box car (not equipped with tanks)	1,091 10
8	C. D. L. 273	Insulated box car (not equipped with tanks)	1,091 10
9	C. D. L. 274	Insulated box car (not equipped with tanks)	1,091 10
10	C. D. L. 275	Insulated box car (not equipped with tanks)	1,091 10
11	C. D. L. 301	Steel tank cars	584 62
12	C. D. L. 302	Steel car tanks	532 82
13	C. D. L. 401	Steel tank cars	1,130 00
14	C. D. L. 402	Steel tank cars	1,130 00
15	C. D. L. 403	Steel tank cars	1,130 00
16	C. D. L. 404	Steel tank cars	1,130 00
17	C. D. L. 405	Steel tank cars	1,130 00
18	C. D. L. 406	Steel tank cars	1,130 00
19	C. D. L. 407	Steel tank cars	1,130 00
20	C. D. L. 501	Steel tank cars	1,240 00

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	Initial number	Kind	Amount
21	C. D. L. 502	Steel tank cars	$1,885 00
22	C. D. L. 503	Steel tank cars	1,240 00
23	C. D. L. 504	Steel tank cars	1,240 00
24	C. D. L. 505	Steel tank cars	1,240 00
25	C. D. L. 701	Insulated steel tank cars	1,400 00
26	C. D. L. 702	Insulated steel tank cars	1,400 00
27	C. D. L. 703	Insulated steel tank cars	1,400 00
28	C. D. L. 704	Insulated steel tank cars	1,400 00
29	C. D. L. 705	Insulated steel tank cars	1,400 00
30	C. D. L. 706	Insulated steel tank cars	1,400 00
31	C. D. L. 707	Insulated steel tank cars	1,400 00
32	C. D. L. 708	Insulated steel tank cars	1,400 00
33	C. D. L. 709	Insulated steel tank cars	1,400 00
34	C. D. L. 710	Insulated steel tank cars	1,400 00
35	C. D. L. 711	Insulated steel tank cars	1,400 00
36	C. D. L. 712	Insulated steel tank cars	1,400 00
37	C. D. L. 713	Insulated steel tank cars	1,400 00
38	C. D. L. 714	Insulated steel tank cars	1,400 00
39	C. D. L. 715	Insulated steel tank cars	1,400 00
40	C. D. L. 716	Insulated steel tank cars	1,400 00
41	C. D. L. 717	Insulated steel tank cars	1,400 00
42	C. D. L. 718	Insulated steel tank cars	1,400 00
43	C. D. L. 719	Insulated steel tank cars	1,400 00
44	C. D. L. 720	Insulated steel tank cars	1,400 00
45	C. D. L. 721	Insulated steel tank cars	1,400 00
46	C. D. L. 722	Insulated steel tank cars	1,400 00
		Total	$109,353 24

on the following conditions and not otherwise, to wit:

1. California Dispatch Line shall, within ten days after the issue of the capital stock herein authorized, report to the Railroad Commission the fact and the date of the issue and the purpose for which the stock was issued.

2. California Dispatch Line shall file with the Railroad Commission a certified copy of the deed of conveyance from California Wine Association.

3. The authority hereby granted shall apply only to such capital stock as may have been issued on or before September 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of July, 1914.

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Decision No. 1666.

IN THE MATTER OF THE APPLICATION OF IMPERIAL GRAIN AND WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK OF THE PAR VALUE OF FORTY-FIVE THOUSAND SIX HUNDRED DOLLARS.

Application No. 1200.

Decided July 13, 1914.

Imperial Grain and Warehouse Company authorized to issue to the Newmark Grain Company 456 shares of its capital stock of the par value of $100.00 per share; 37 shares in lieu of a like number heretofore issued without the consent of the Commission, 90 shares in payment of indebtedness due Newmark Grain Company, and the balance in exchange for certain warehouses owned by the latter company.

Albert M. Norton, for Applicant.

Report of the Commission.

Thelen, *Commissioner.*

This is an application by Imperial Grain and Warehouse Company for an order authorizing the issue of capital stock at par, aggregating $45,600.00, for the purposes hereinafter specified.

Imperial Grain and Warehouse Company was incorporated on March 27, 1912, under the laws of this state, for the purpose, among others, of engaging in the business of warehousing as a public utility. At the present time the company is engaged in the public storage of grain, grain products, grain and bean bags, baled hay and other commodities.

The company is controlled through stock ownership by Newmark Grain Company, a corporation engaged in the business of buying and selling beans, flour, feed and grain, and in storage and warehousing, with the principal place of business at Los Angeles and branches at San Fernando, Owensmouth, Palms, Downey, Perris, Compton, Huntington Beach and El Centro. This corporation now desires to separate its public utility functions from its other business and Imperial Grain and Warehouse Company desires to purchase the Newmark Grain Company Warehouses, equipment and leases and to issue its capital stock at par in exchange for said property.

A contract dated June 16, 1914, between the parties, a copy whereof is attached to the petition herein, contains their agreement. The Newmark Grain Company is to convey the following property for the following shares of capital stock of Imperial Grain and Warehouse Company:

(1) Warehouse located at Owensmouth, commonly known as Canoga station, together with lease of the property, 30 shares.

(2) Warehouse located on Southern Pacific right of way at San Fernando, together with appurtenances, except the machinery now situated in the warehouse and the appurtenances thereto, and also lease of

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May 23, 1907, from Southern Pacific Company to Newmark Grain Company, 79 shares.

(3) Warehouse at Palms, except all the machinery and appurtenances located therein, together with parcel of real estate on which it is located and lease of August 26, 1913, from Pacific Electric Railway Company to Newmark Grain Company, 200 shares.

(4) Warehouse at Palms, together with lease of October 16, 1912, from Hook Brothers to Newmark Grain Company, 20 shares.

The contract further provides that Newmark Grain Company reserves to itself the right to use one fourth of the space in each of said warehouses, being the space in which its machinery is at present installed, for the purpose of conducting its milling and cleaning business; that Newmark Grain Company is to take in, pile and take out all commodities except its own commodities for the warehouse company for a remuneration of 50 cents per ton, and is to pay half the salary of a foreman if it is found necessary to have a foreman continually in charge; and that Newmark Grain Company is to retire from the warehouse and storage business.

Careful inquiry was made at the hearing into the value of each of the foregoing properties, and I am satisfied to recommend their exchange for capital stock of Imperial Grain and Warehouse Company at par, as requested, with the insertion of the usual condition that the amount of stock authorized shall not be taken before this Commission or any other public authority to represent for rate fixing or other purposes the real value of the property.

Imperial Grain and Warehouse Company also requests authority to issue 90 shares of its capital stock to Newmark Grain Company to pay an indebtedness of $8,993.26 due to Newmark Grain Company for moneys loaned for proper capital expenditures. I recommend that this portion of the application be likewise granted.

It developed at the hearing that Imperial Grain and Warehouse Company purported to issue 37 shares of stock subsequent to the effective date of the Public Utilities Act, but without an order of this Commission authorizing their issue, as provided by section 52 of the Public Utilities Act. These shares are accordingly void. There was no intention to violate the Public Utilities Act. The shares were issued in return for $3,700.00 in cash, supplied by Newmark Grain Company and used by Imperial Grain and Warehouse Company in the construction of its warehouse at El Centro. Imperial Grain and Warehouse Company asked permission at the hearing to amend its petition so as to ask authority to issue 37 shares of its capital stock in lieu of those illegally issued. This permission was given and I recommend that this portion also of the application be granted.

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As section 51 of the Public Utilities Act, referring to sales and other dispositions of public utility property, does not apply to warehouse properties, it was not necessary for Newmark Grain Company to apply for an order authorizing the sale of its properties. When this company has amended its articles of incorporation so as to eliminate its public utility powers, it will have removed itself entirely from the jurisdiction of this Commission.

I recommend that the application of Imperial Grain and Warehouse Company be granted, and submit herewith the following form of order:

ORDER.

Imperial Grain and Warehouse Company having applied to the Railroad Commission for an order authorizing the issue of 456 shares of its common capital stock of the par value of $100.00 each for the purposes hereinafter specified, and a public hearing having been held on said application, and the Commission finding that the purposes for which it is proposed to issue said capital stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Imperial Grain and Warehouse Company is hereby authorized to issue to Newmark Grain Company 456 shares of its common capital stock of the par value of $100.00 per share on the following conditions and not otherwise, to wit:

1. Imperial Grain and Warehouse Company may issue 37 of said shares to Newmark Grain Company in lieu of the same number heretofore illegally issued, upon the return and cancellation of the certificate or certificates for the shares so illegally issued.

2. Imperial Grain and Warehouse Company may issue 90 of said shares to Newmark Grain Company in payment of indebtedness of $8,993.26 now owing from Imperial Grain and Warehouse Company to Newmark Grain Company.

3. Imperial Grain and Warehouse Company may issue 329 of its said shares to Newmark Grain Company in return for deed conveying a good and marketable title to the following properties to be deeded from Newmark Grain Company to Imperial Grain and Warehouse Company:

(*a*) Warehouse located at Owensmouth, commonly known as Canoga Station, together with a lease of the property, 30 shares;

(*b*) Warehouse located on Southern Pacific right of way at San Fernando, together with appurtenances, except the machinery now situated in the warehouse and appurtenances thereto, and also lease of May 23, 1907, from Southern Pacific Company to Newmark Grain Company, 79 shares;

(*c*) Warehouse at Palms, except all the machinery and appurtenances located therein, together with parcel of real estate on which it is located and lease of August 26, 1913, from Pacific Electric Railway Company to Newmark Grain Company, 200 shares;

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(*d*) Warehouse at Palms, together with lease of October 16, 1912, from Hook Brothers to Newmark Grain Company, 20 shares; reserving, however, to Newmark Grain Company the right to use one fourth of the space in each of said warehouses, being the space in which the company's machinery is at present installed, this space to be used only for the company's cleaning and milling business.

4. Imperial Grain and Warehouse Company shall report to the Railroad Commission the fact and date of the issue of capital stock herein authorized and the purposes for which it has been issued and shall also file a certified copy of the deed of conveyance from Newmark Grain Company.

5. The amount of capital stock issued by Imperial Grain and Warehouse Company in exchange for the Newmark Grain Company's warehouse properties and leases shall not be urged before the Railroad Commission or other competent public authority as representing for rate fixing or other purposes the real present value of the property.

6. The authorization herein given shall apply only to capital stock issued by Imperial Grain and Warehouse Company on or before September 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of July, 1914.

DECISION NO. 1667.

IN THE MATTER OF THE APPLICATION OF THE CITY OF ORANGE AND OF THE SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER FIXING RATES FOR NATURAL GAS.

Application No. 998.

Decided July 13, 1914.

C. F. Newton, for City of Orange.

Wilson & Wilson, for Southern Counties Gas Company of California.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

ORDER OF DISMISSAL.

Southern Counties Gas Company of California having applied to the Commission for authority to put into effect within the city of Orange a rate of 75 cents per 1,000 cubic feet for natural gas supplied for domestic purposes, the rate heretofore charged within said city being

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$1.22 per 1,000 cubic feet for artificial gas, and the city of Orange having expressed its willingness that said rate of 75 cents per 1,000 cubic feet be put into effect, and it appearing to the Commission that this reduced rate may be put into effect by Southern Counties Gas Company of California within the city of Orange without the formal consent of this Commission,

It is hereby ordered that the above entitled application be and the same is hereby dismissed without prejudice.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of July, 1914.

Decisions Nos. 1668, 1669, 1670, 1671, and 1672, grade crossings; not printed. See end of volume.

DECISION NO. 1673.

IN THE MATTER OF THE APPLICATION OF NAPA CITY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWENTY THOUSAND DOLLARS.

Application No. 1211.

IN THE MATTER OF THE APPLICATION OF NAPA CITY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TEN THOUSAND DOLLARS.

Application No. 1212.

Decided July 16, 1914.

Applicant authorized to issue bonds of the aggregate face value of $30,000.00 to be sold at par plus accrued interest, $10,000.00 face value to be issued in lieu of bonds of a like amount heretofore issued without the consent of the Commission and the balance to take up two outstanding notes and for improvements and extensions to plant.

H. L. Johnston, for Napa City Water Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

These are two applications for an order authorizing Napa City Water Company to issue bonds of the face value of $30,000.00, for the purposes hereinafter indicated. These proceedings have been consolidated for hearing and decision.

Napa City Water Company is a public utility water company supplying water to the city of Napa and the inhabitants thereof. The company asks authority to issue, at full face value, its bonds of the face value of $30,000.00 as follows:

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1. Bonds of the face value of $10,000.00 to be issued in lieu of bonds of the same face value issued without this Commission's authority in September and October, 1912.

2. Bonds of the face value of $10,000.00, the proceeds thereof to be used in part to pay two certain promissory notes aggregating $8,250.00, and in part to liquidate indebtedness of applicant for the purchase of meters.

3. Bonds of the face value of $10,000.00, the proceeds thereof to be used in part for the construction of an extension of applicant's water system to Alta Heights in Napa, and in part for the purchase of meters.

In September and October, 1912, applicant issued and sold at full face value $10,000.00 of its bonds, and used the proceeds in part payment for the acquisition and construction of its Jefferson street pumping plant, also known as Plant No. 2. These bonds were issued without any intention to violate the Public Utilities Act and without a knowledge of the provisions thereof. The entire proceeds of the bonds were used for purposes which are properly chargeable to capital account, and I recommend that applicant be authorized to issue its bonds of the face value of $10,000.00 in lieu of the bonds illegally issued, which latter bonds must be called in.

The proceeds of the second issue of $10,000.00, hereinbefore referred to, are to be used in part to pay note for $4,250.00 in favor of E. W. Churchill, dated March 20, 1914, payable one day after date, interest at 7 per cent per annum, and also note for $4,000.00 in favor of C. M. Smith, dated March 20, 1914, likewise payable one day after date with interest at the rate of 7 per cent per annum. Notes in these amounts were originally given to represent money borrowed to complete the installation of the Jefferson street pumping plant, hereinbefore referred to. Their proceeds were thus used for purposes which are properly capitalizable. It is now proposed to substitute bonds bearing interest at the rate of 5 per cent per annum for these notes bearing interest at the rate of 7 per cent per annum. The remaining portion of the proceeds from this issue of bonds of the face value of $10,000.00 is to be applied on account of applicant's indebtedness accruing from the purchase of meters. Applicant is metering its water customers in the city of Napa at the rate of about fifty per month, and has now metered about 45 per cent of its customers. The meters used are the trident ⅝-inch meters, which meters cost $8.60 each delivered in Napa. Applicant has been paying the sum of $250.00 per month on meter account but now owes some $3,000.00 on this account, which sum applicant desires to pay, in so far as possible, from the proceeds of this second issue of $10,000.00 of bonds.

The proceeds from the third issue of $10,000.00 of bonds, hereinbefore referred to, are to be used in part to reimburse applicant in the

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matter of its extension to Alta Heights, and the remaining portion of the proceeds is to be used on meter account. For further details in the matter of the Alta Heights extension, see this Commission's Decision No. 1550, rendered on May 28, 1914, in Case No. 575, *City of Napa* vs. *Theodore A. Bell and Napa City Water Company.* Applicant asks authority to issue these bonds for the purpose of constructing the extension to Alta Heights, which was ordered in this Commission's said Decision No. 1550. One bond of the face value of $500.00 is to be issued to Theodore A. Bell in exchange for his distributing system in Alta Heights, and sufficient of the remaining bonds are to be sold so as to reimburse applicant for the cost of purchasing materials and installing pipe line to Alta Heights. An estimate of cost, attached to the petition in Application No. 1212, would seem to show that this work will cost about $8,214.23. The estimate may run a little over this amount for the reason that the digging of trenches has proved harder than was anticipated. The remaining portion of the proceeds of this issue of $10,000.00 is to be used to pay existing indebtedness for meters and the purchase of meters hereafter.

Napa City Water Company has an authorized issue of capital stock amounting to $250,000.00, whereof 8,852 shares of the total par value of $221,300.00 have been issued.

The Company has authorized an issue of 5 per cent gold bonds of the face value of $100,000.00, secured by deed of trust dated January 1, 1910, to Bank of Napa. Of the bonds so authorized, bonds of the face value of $47,500.00 have been issued, whereof bonds of the face value of $3,000.00 have been redeemed, leaving a total face value of $44,500.00 of bonds now outstanding.

Applicant's other indebtedness consists of about $3,000.00 due on the purchase of meters and some $900.00 due on open account for current expenses.

Applicant has recently completed an inventory of its property, together with an estimate of depreciated reproduction value thereof. The total estimate for tangible property is $267,450.00 and for intangible, $47,800.00, whereof $30,000.00 is for water rights and $17,800.00 for going concern value.

Without going into the details of this estimate and without reaching a conclusion which will in any way bind this Commission with reference to the true value of this property, I am convinced from the evidence introduced at the hearing that there is ample margin between the true value of the property and the bonds now outstanding, together with those which it is now proposed to issue. With reference to the ability of applicant to pay interest and sinking fund obligations in connection with the new bonds, as well as those already outstanding, applicant's secretary testified that the gross revenue for the year ending

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December 31, 1913, was $37,013.87 and that the gross operating expenses were $21,723.15. This would leave a balance of $15,290.72 for interest on outstanding obligations, depreciation and return on investment. While applicant's trust deed makes no provision for a sinking fund, applicant has of its own accord set aside each month for the purpose of buying in outstanding bonds, one cent for each share of outstanding stock, amounting to $88.52 per month. Applicant has never set aside a fund for depreciation, but is now seeking advice from engineers as to the proper sum to be thus set aside. I am satisfied on the showing made that applicant's net earnings are such as to justify the belief that applicant will be able to meet the interest and sinking fund obligations on all its outstanding bonds in case the order herein asked for is made.

Napa City Water Company expects to sell at full face value the bonds as to which this Commission's authority is now requested. All the company's outstanding bonds have hitherto been sold at par.

In Application No. 1212, Napa City Water Company asks this Commission to make an order authorizing the company to charge a minimum meter rate of $1.50 per month per consumer in Alta Heights until at least fifty consumers are served from the proposed extension, the rate for water apart from the minimum to be the same as may from time to time apply to other portions of the city of Napa. The authority so requested has already been granted in this Commission's said order of May 28, 1914, in Case No. 575, and it is unnecessary to issue another order covering the same ground. The company also asks authority to make a charge of $2.50 per month for three certain fire hydrants to be installed by the city of Napa in Alta Heights, until at least fifty consumers are served from the proposed extension. This is a matter which is not properly a part of a bond application and will be taken up separately with the city of Napa.

I find that the purposes for which the proceeds of the bonds herein applied for are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and recommend that the applications be granted as specified in the order herein.

I submit herewith the following form of order:

ORDER.

Napa City Water Company having applied to the Railroad Commission for an order authorizing the issue of its bonds of the face value of $30,000.00 for the purposes hereinafter specified, said bonds to be payable on the first day of January, 1930, or at any time after the first day of January, 1915, at the option of the board of directors of Napa City Water Company, and to bear interest at the rate of 5 per cent per annum, payable semiannually, and secured by a trust deed or mortgage upon all the property of the company, and the Commission finding that the purposes for which the proceeds of these bonds are to

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be used are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by Napa City Water Company of $30,000.00, face value, of bonds of said company, maturing the first day of January, 1930, or at any time after the first day of January, 1915, at the option of the board of directors of Napa City Water Company, and to bear interest at the rate of 5 per cent per annum payable semiannually, under and in pursuance of the terms of the trust deed or mortgage heretofore and on the first day of January, 1910, made and executed by said Napa City Water Company to Bank of Napa, as trustee, upon the following conditions, and not otherwise, to wit:

1. Napa City Water Company shall issue the bonds hereby authorized at their face value together with interest accrued thereon.

2. Napa City Water Company shall issue said bonds for the following purposes, and not otherwise, to wit:

(*a*) $10,000.00 face value of said bonds may be issued in lieu of bonds of an equivalent face amount heretofore in September and October, 1912, issued by Napa City Water Company without the prior authorization of the Railroad Commission, but only on condition that said bonds so purported to be issued in September and October, 1912, shall first be called in by Napa City Water Company.

(*b*) $10,000.00 face value of said bonds may be issued and the proceeds thereof used as follows:

(1) To pay off note for $4,250.00 in favor of E. W. Churchill, dated March 20, 1914, payable one day after date, interest 7 per cent per annum—bonds not to exceed the face value of $4,250.00.

(2) To pay off note for $4,000.00 in favor of C. M. Smith, dated March 20, 1914, payable one day after date, interest 7 per cent per annum—bonds not to exceed the face value of $4,000.00.

(3) To pay indebtedness on meter account—bonds not to exceed the face value of $1,750.00.

(*c*) $10,000.00 face value of bonds may be issued and the proceeds thereof applied as follows:

(1) One bond of the face value of $500.00 may be issued to Theodore A. Bell in payment for his water distributing system in Alta Heights.

(2) The proceeds from the remaining bonds, of the face value of $9,500.00, may be used, in so far as necessary, to pay for the proposed extension to Alta Heights and the remaining proceeds may be used to purchase meters.

3. Napa City Water Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission, stating the sale or sales

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of said bonds during the previous month, the terms and conditions of sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority hereby given to issue bonds shall apply only to such bonds as may have been issued on or before July 1, 1915.

5. The authority hereby given to issue bonds shall not become effective until applicant has paid the fee specified in section 57, as amended, of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of July, 1914.

DECISION NO. 1674.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY TO DISCONTINUE THE AGENCY DEPOT AT MOUNT HEBRON, SISKIYOU COUNTY, CALIFORNIA.

Application No. 1111.

Decided July 18, 1914.

Southern Pacific Company applies for permission to discontinue its agency at Mount Hebron on the grounds that the business is insufficient to require an agent, and also that it maintains an agent at Macdoel, 2.6 miles distant.

Held. That the Mount Hebron shipments show an increase over last year; that there is a greater amount of freight and passengers moving through this station than through Macdoel; that to discontinue such agency would greatly inconvenience a number of shippers whose plants are situated some distance from the station; application denied without prejudice.

Geo. D. Squires, for Southern Pacific Company.

A large number of shippers representing protestants.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

On February 20, 1914, the Southern Pacific Company in pursuance to General Order No. 36 filed with the Commission its application for permission to abandon the agency now maintained at Mount Hebron, Siskiyou County, California, until such time as traffic would warrant its re-establishment. Together with the application there were submitted data purporting to show that the business done at this point is not of sufficient volume to justify the continuance of an agency and that the carload shipments, which constitute the larger portion of the busi-

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ness, could readily be handled with little inconvenience to the shippers without this agency.

Upon investigation it appeared that the figures submitted by the company were correct, and informal permission for the closing of this agency was given, with the understanding that if further investigation developed the fact that an agent should be maintained in the future, this agency should be reopened on the suggestion of the Commission without the necessity of formal proceedings.

Immediately upon notice by the Southern Pacific Company to the shippers of Mount Hebron that the agency would be abandoned vigorous complaint was made by the interested parties to this Commission against the closing of this agency, it being alleged that the business of certain shippers would suffer greatly if the agency were removed. The Commission found it necessary to suspend its *ex parte* permission granted April 7, 1914, and set the matter down for a hearing. This hearing was held in Weed on June 12, 1914, with the applicant and the principal shippers represented before the Commission.

The applicant states that the following amount of business was handled at Mount Hebron during the year ending December 31, 1913:

	Forwarded		Received		Total	
	Tons	Revenue	Tons	Revenue	Tons	Revenue
Carload	6,752	$15,377 34	236	$1,377 72	6,988	$16,765 05
Less than carload	49	339 50	114	1,727 45	163	2,056 96
Total	6,801	$15,716 84	350	$3,105 17	7,151	$18,822 01
Principal Commodities (included in above):						
Lumber	6,277	$12,474 32			6,277	$12,474 32
Cattle	177	1,359 32	140	$1,062 56	317	2,421 88
Hay	171	816 70			171	816 70
Total	6,625	$14,650 34	140	$1,062 56	6,765	$15,712 90

These figures show that for the year ending December 31, 1913, 6,988 tons of freight in carload lots were received at and forwarded from this station, and that the freight charges accruing thereon amounted to $16,765.05. The applicant states that this figure represents the long distance haul from Mount Hebron station to the big centers, such as San Francisco and Portland, rather than the work as done at this station; and also, that the large charges are because of the work done by the trains rather than by the station. Applicant maintains that the less-than-carload shipments amounting to 163 tons, with a revenue thereon of $2,056.96 for the year, should be considered as the one reason for maintaining an agent. It is also stated that ninety per cent of the

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entire tonnage both forwarded and received is lumber shipped from one concern.

The Southern Pacific Company at the hearing declared that it would continue Mount Hebron as a non-agency point, with a waybill box for the convenience of the shippers and with the train conductors acting in the place of an agent—an arrangement that, according to the company, has proven entirely satisfactory in a number of places in this state where the total business is largely in excess of that done at Mount Hebron. The company agreed, however, that this arrangement would not take care of the convenient handling of passengers and their baggage and would result in the further inconvenience that freight shipments to this point would either have to be prepaid or shipped under bond.

The protesting shippers generally claimed that the discontinuance of this agency would result in monetary loss and great inconvenience to them, and that from a revenue point of view such an action by the railroad company would be entirely unjust and unwarranted. It was stated that the railroad business handled at Mount Hebron during the last few years has not decreased but increased in volume, and that the prospective business for the present year is much larger than that which was actually handled last year. The protestants also claimed that they believe themselves discriminated against in favor of the agency point, Macdoel, which is located only 2.6 miles north of Mount Hebron. It is stated to the Commission that the business done at Macdoel has been less during the past years, and will be very considerably less in the future than that originating from and destined to Mount Hebron.

At the hearing in Weed I requested that the company furnish the Commission a statement showing the passenger and freight business handled at Mount Hebron for the last four or five years, and also a comparative statement of business done as between Mount Hebron and Macdoel. This information was only partly furnished by the company, but sufficient data are on hand for a decision in this matter.

It was maintained at the hearing by the attorney for applicant that the passenger business and the less-than-carload business should be the governing factors in a case of this kind. It is true that the necessity for a station depends upon the convenience to the public and on the amount of business done, and must be measured to a large extent by the passenger and less-than-carload business. But I can not agree that this is the sole test. I believe that the Commission should have in mind all other important factors entering into the situation. In this case the principal factors are:

First—The history of this station;

Second—The amount of business handled;

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Third—The increasing or decreasing amount of business chargeable to this station;

Fourth—The relative importance of this station as compared with other agency points in the neighborhood;

Fifth—Special conditions.

As to the first point, the applicant's witnesses stated that this station was established as "a gambling chance," because a great amount of stock and other shipments were expected from this point; but that this expectation later on did not materialize. The Commission, however, made its own investigation, and finds that when this line was built in 1906 and 1907, the California Northwestern Railway Company, a subsidiary of the Central Pacific Railway Company, acquired a 100-foot right of way about 2½ miles long through the "Boyes Ranch." This strip of right of way amounting to over 27 acres, was granted to the railroad company free, with the written understanding that a passenger and freight depot be established and maintained at Mount Hebron. In 1908 the company, in accordance with this agreement, built a two-story combination freight and passenger depot, costing over $7,000.00, and erected section buildings, water station, and other structures, at an additional expense of over $17,000.00; it also established an agent. If it is a fact that the company took a gambling chance on an agency at this point, it appears to me that this chance could have been taken with a very much less original and permanent investment. At any rate, I believe that the Commission is bound to consider the fact that this depot and this agency were established in the fulfillment of the terms of a clear and definite agreement. I agree with the applicant's contention that an order of this Commission must be paramount to any private interest and will supersede the terms of private agreements; but this Commission will certainly, wherever necessary, take into consideration agreements that may have, in good faith, been entered into between public utilities and private parties.

The amount of business handled at Mount Hebron during the year 1913 is correctly shown in the statement made by the company in its application and given heretofore. If the less-than-carload freight business and passenger business were the only test of the necessity of an agency or a station, applicant, in my opinion, would be justified in discontinuing this agency. I believe, however, that the carload business should be considered when the revenues and expenses of a station are compared. This is especially true in this case, where it was shown beyond question that shippers living a considerable distance away from the station would be much inconvenienced by the absence of an agent and, owing to the nature of their business, might be subjected to serious loss through the failure to get cars promptly when ordered and needed. The revenue accruing from all freight and passenger business at this

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station for the year ending December 31, 1913, amounted to $21,202.15, and this showing, in my opinion, is not so discouraging as to warrant the abolishing of an agency that has been in existence for five or six years. This seems to me especially true if it can be shown that the business is not decreasing, or at a standstill, but increasing.

In order to determine whether or not the business at Mount Hebron is on the decline, the applicant was requested to furnish a statement showing the conditions for the last four or five years. These figures were compiled for the freight business, but not for the passenger traffic. The totals are as follows:

Five-year Statement of Freight Business at Mount Hebron Station.

Fiscal year ending June 30	Tons forwarded		Tons received		Totals
	Carload	Less-carload	Carload	Less-carload	
1910	6,765	65	1,867	878	9,575
1911	8,472	103	3,430	1,122	13,127
1912	10,865	98	834	789	12,586
1913	8,123	62	307	519	9,011
1914[1]	8,242	64	246	318	8,870

Charges on Freight.

	Forwarded		Received		Totals
	Carload	Less-carload	Carload	Less-carload	
1910	$56,366 15	$186 01	$3,772 27	$15,179 72	$75,804 15
1911	19,589 89	510 51	8,985 91	8,809 57	37,895 88
1912	14,416 98	894 02	4,925 02	4,210 79	24,476 81
1913	20,370 89	647 04	1,255 43	3,526 41	25,799 77
1914[1]	18,989 68	727 20	1,386 21	3,083 70	24,186 79

[1]Year consists of June, 1913, to May, 1914, inclusive. Figures for June, 1914, not ready.

There are fluctuations in the individual columns, but taking the business as a whole and as reflected in the last column under "Total Charges on Freight," it does not appear as if the business had declined during the last three years. The first year and the first half of the second year clearly show an abnormally large business. This is the more apparent if the general decrease in business during the last year on the applicant's entire system is taken into consideration. The note in the above table with reference to the year 1914 should also not be overlooked. The testimony introduced at the hearing by the shippers from this point was unanimous and convincing that the present year would show a marked increase in business over the preceding twelve months. It was testified to that there are now over 400 residents tributary to Mount Hebron, as against 60 or 70 at Macdoel, and a good many more than last year. The lumber mills seem to be operating on a larger scale now

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than in former years. One lumber company which shipped 189 carloads last year has this year contracts for the shipment of 400 cars. This particular shipper has to haul his lumber for a considerable distance, and to force him to ship at Macdoel instead of Mount Hebron would add three miles to the length of his wagon haul. There are other shippers in relatively the same position.

I am by no means convinced that the business outlook at this time justifies the abandonment of this agency.

With reference to the relative importance of this station as compared with other points in the neighborhood, it has been pointed out heretofore that Macdoel, 2.6 miles north of Mount Hebron, has also a freight and passenger depot and is also an agency point. The statements furnished by the applicant, upon the Commission's request, do not show the comparative freight and passenger business as between Mount Hebron and Macdoel for a number of years. The applicant does give, however, a comparison of the passenger business at those two points for the twelve months ending May, 1914. This comparison follows:

Passenger Business, Mount Hebron and Macdoel.

Month	Macdoel		Mount Hebron	
	Number passengers	Revenue	Number passengers	Revenue
1913.				
June	152	$215 00	149	$191 05
July	185	249 90	215	252 15
August	97	184 75	164	251 85
September	112	144 00	135	125 25
October	137	223 65	142	191 75
November	149	315 80	126	173 30
December	131	296 15	128	250 35
1914.				
January	42	82 85	39	73 55
February	46	69 10	45	39 90
March	52	100 35	78	97 85
April	91	172 45	82	101 20
May	65	151 45	137	161 85
Totals	1,259	$2,205 45	1,440	$1,910 05
Average per day	3.4		3.9	

It would appear from this table that there is but little difference between the two stations with reference to passenger revenue. Mount Hebron handles more passengers and Macdoel produces slightly the larger revenue. I am convinced, however, that a great deal more business and revenue originates from and is chargeable to Mount Hebron than to Macdoel. From May, 1913, to April, 1914, for instance, there was forwarded from Macdoel, according to the testimony introduced at the hearing, 2761 tons in carload lots and 52 tons in less-than-carload lots, and there was received 105 tons in carload lots and 241 tons in

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less-than-carload lots, making a total of 3,159 tons. At Mount Hebron, during the period from June, 1913, to May, 1914, inclusive, the corresponding tonnage was 8,242 tons in carload lots and 64 tons in less-than-carload lots forwarded, and 246 tons carload lots and 318 tons less-than-carload lots received, making a total of 8,870 tons. The freight charges on this Mount Hebron tonnage totaled $24,186.29. The charges on the Macdoel tonnage are not available, but it is certain that they are less than one half of the Mount Hebron figures.

Certain special conditions enter into this case. I agree with the applicant that the establishment of two costly two-story combination freight and passenger depots and their maintenance, in a territory so sparsely settled and little developed as this one, and within 2.6 miles of each other, represents an economic waste. The mistake, evidently, was made when the stations were built and the agencies established. Now that they exist and communities built up around them on the strength of this fact, it is a serious matter to deprive shippers of their facilities and the public of its necessities and conveniences. If these stations have been established under the terms of contracts, the Commission will be slow to disturb such contractual relations unless it sees good reasons for doing so.

The fact should also not be lost sight of that a number of the principal shippers operate a considerable distance away from the Mount Hebron station. Such shippers are more in need of an agent than others living close to the depot. I believe that their convenience should be considered.

I find therefore as a fact that the discontinuance of the freight and passenger agency at Mount Hebron, Siskiyou County, California, would result in great inconvenience and loss to the public and to the shippers, and that the public convenience and necessity is served by a continuance of this agency; and I recommend that the application be denied.

I submit herewith the following form of order:

ORDER.

The Southern Pacific Company on February 20, 1914, having made application to the Commission for permission to abandon the agency now maintained at Mount Hebron, Siskiyou County, California, until such time as traffic will warrant its re-establishment; and a public hearing having been held in this matter; and it appearing to the Commission that the discontinuance of this agency would result in inconvenience and loss to the public and the shippers; and that the public convenience and necessity is served by the continuance of this agency; and that the application should be denied,

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It is hereby ordered that the application be denied, without prejudice, and that applicant continue, until further order by this Commission, the freight and passenger agency at Mount Hebron, Siskiyou County, California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of July, 1914.

DECISION NO. 1675.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE NOTES.

Application No. 1198.

Decided July 18, 1914.

Southern Counties Gas Company of California authorized to issue its promissory notes of the aggregate face value of $240,500.00, to be sold at not less than 93, proceeds to be used for the following purposes; (1) $123,661.85 to take up outstanding notes; (2) $29,850.10 in payment of portions of open book accounts, excepting the item of amounts paid in the purchase of gas stoves to be sold by applicant; (3) $26,979.55 to reimburse treasury for money expended for capital purposes; (4) $43,000.00 for additions and improvements to system.

Wilson & Wilson, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

In this application Southern Counties Gas Company of California asks for authority to issue its three-year 6 per cent promissory notes of the face value of $240,500.00.

Applicant has an authorized capital stock of the par value of $1,000,000.00, divided into 10,000 shares of the par value of $100.00 each. One half of this stock is preferred and the remaining one half common. Applicant has issued preferred stock of the par value of $340,000.00 and all of its common stock, so that there is outstanding stock of the par value of $840,000.00.

Applicant has an authorized bond issue of thirty-year 6 per cent gold bonds of the par value of one million dollars, of which bonds at the par value of $579,000.00 are outstanding.

Applicant has outstanding its promissory notes of the face value of $123,661.85, which notes are set forth in a statement attached to the application in this proceeding and marked "Exhibit A." Applicant also has a further indebtedness of $38,277.20 represented by open book

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accounts which are set forth in a statement attached to this application and marked "Exhibit B." Applicant's total indebtedness, other than the outstanding bonds, is represented by these notes and book accounts which, together, amount to $161,939.05.

Negotiations are now under way between applicant and eastern capitalists whereby applicant expects to procure the sum of $1,600,000.00. This sum will be represented by notes or bonds secured by a mortgage upon all the properties of the applicant. The present application is filed as a preliminary step toward the consummation of these negotiations.

In the present application Southern Counties Gas Company of California asks permission to issue its three-year 6 per cent promissory notes of the face value of $240,500.00. It is proposed that the proceeds derived from the issue of these notes will be used for the following purposes:

(1)	$123,661 85	to refund the notes of applicant tabulated in "Exhibit A," attached to the application;
(2)	29,850 10	to pay certain of the book accounts tabulated in "Exhibit B," attached to the application;
(3)	26,979 55	to reimburse the treasury for capital expenditures made from income during the past three years;
(4)	43,000 00	for extensions and betterments as needed.
	$223,491 50	

I shall discuss each of these purposes separately. Considering first the item of $123,661.85 for the payment of outstanding notes, the evidence shows that the money derived from these notes was spent in the construction of applicant's system. Applicant should be allowed to refund these notes, and I so recommend.

It is requested that the sum of $29,850.10 be allowed for the payment of certain of the open book accounts tabulated in "Exhibit B," attached to the application. The book accounts set forth in that exhibit aggregate $38,277.20; $8,427.10 of these accounts, however, represent moneys which have been expended in the purchase of gas stoves and other gas appliances which applicant has sold in the development of its business. These gas appliance accounts should properly be paid from income. The sums so expended can not, in my opinion, properly be capitalized. The accounts represented in "Exhibit B" other than the gas appliance accounts are, in my opinion, properly chargeable as capital expenses. It is these accounts which applicant desires to refund with the notes herein requested, and I believe that they should be allowed.

Twenty-six thousand nine hundred and seventy-nine dollars and fifty-five cents is asked to reimburse applicant's treasury for moneys spent from income during the past three years. The evidence in this proceeding shows that since applicant originally purchased this system about three years ago this sum of money has been taken from income from

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time to time and expended in extending and developing the system and increasing its facilities. As this sum of money was expended from income for purposes properly chargeable to capital account, applicant is entitled to issue its notes with the consent of the Commission to reimburse its treasury for the money so expended. Forty-three thousand dollars are desired to be expended in extensions, service connections and betterments as occasion therefor arises. It appears that applicant has very recently begun to serve natural gas in the city of Orange and in other communities served by it in Southern California. Applicant proposes to develop its natural gas supply and serve natural gas throughout the entire system. The heating capacity of natural gas in this territory is about twice that of artificial gas, and also can be supplied at considerably less expense than artificial gas. As the rate for natural gas is less, applicant must necessarily increase the number of its consumers in order to have its income undiminished. Applicant accordingly proposes to develop and expand its business as rapidly as possible. The sum of $43,000.00 is accordingly requested for the purposes of meeting the expenses needed for extensions and betterments as occasion therefor arises.

I believe that Southern Counties Gas Company of California, if properly financed, has a great future in Southern California. Such was the testimony of William A. Baehr, who was sent out from Chicago by the eastern capitalists with whom applicant is negotiating, to inspect the property of this company. From the report he has made and from the knowledge which the Commission has of the possibilities for the development and sale of natural gas in the communities served by applicant, I feel that the Commission should give every assistance possible to aid applicant in the present scheme of financial reorganization. I am of the opinion that applicant should be permitted to issue the notes herein requested for the purposes specified. The various items for which applicant desires to issue notes amount to $223,491.50. If applicant can dispose of its notes at 93, this sum can be realized and I recommend that the application be granted upon the condition that the notes be issued for not less than 93 per cent of their face value.

I submit herewith the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to this Commission for permission to issue its promissory notes of the face value of $240,500.00, and a public hearing having been held upon said application, and the Commission finding that none of the purposes for which the proceeds derived from said notes are to be used are in whole or in part chargeable to operating expenses or to income, and that the application should be granted,

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It is hereby ordered that Southern Counties Gas Company of California be and it is hereby authorized to issue its promissory notes of the face value of $240,500.00, upon the following conditions, and not otherwise, to wit:

1. Said notes shall be issued for a term not to exceed three (3) years and at a rate of interest not to exceed six per cent (6%) per annum.

2. Said notes shall be issued so as to net applicant not less than ninety-three per cent (93%) of the face value thereof.

3. The proceeds obtained from said notes shall be used for the following purposes only:

(*a*)	$123,661 85	for the payment of the notes of applicant tabulated in "Exhibit A," attached to the application;
(*b*)	29,850 10	for the payment of a portion of the open book accounts of applicant tabulated in "Exhibit B," attached to the application; which do not represent moneys owing for the purchase of gas stoves or other gas appliances;
(*c*)	26,979 55	to reimburse applicant's treasury for moneys expended from income during the past three years for new construction, additions and betterments to applicant's system;
(*d*)	43,000 00	to pay for extensions to mains, installation of service connections, betterments to applicant's system and improvement in the facilities thereof as occasion therefor may arise.
	$223,491 50	

4. If applicant should desire to execute a mortgage or deed of trust to secure any or all of the notes herein authorized to be issued, such mortgage or deed of trust shall not be executed until a form thereof has been submitted to the Commission and the approval of the Commission thereto received in the form of a supplemental order.

5. Applicant shall keep true, accurate, and separate account of the notes issued in accordance with this order, and of the manner in which the proceeds derived therefrom are applied, and on or before the twenty-fifth day of each month shall make a verified report to the Commission, stating the number of notes issued during the preceding month, the amount derived therefrom and the manner in which the proceeds have been applied, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

6. The authority herein granted applicant to issue notes shall apply only to such notes as are issued on or before December 31, 1914.

7. This order shall not become effective until applicant has paid the fee provided by section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of July, 1914.

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DECISION NO. 1676.

IN THE MATTER OF THE APPLICATION OF CROCKER ESTATE COMPANY FOR AN APPRAISEMENT OF ITS WATER SYSTEM IN DALY CITY, SAN MATEO COUNTY, CALIFORNIA, AND FOR PERMISSION TO SELL THE SAME UNDER SECTION 51 (A) OF THE PUBLIC UTILITIES ACT.

Application No. 1203.

Decided July 18, 1914.

Upon application of the Crocker Estate Company, Commission proceeds to fix a proper valuation upon such portions of its water system as are desired to be purchased by the city of Daly City, which valuation is fixed at $30,816.00, and it appearing that the city has not a sufficient amount of the proceeds of bonds remaining to pay this amount, matter held in abeyance pending negotiations between interested parties tending toward an agreement satisfactory to both.

Morrison, Dunn & Brobeck and *E. Schwab*, for Applicant.

J. H. Morris, city attorney of Daly City, for Daly City.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Daly City, contemplating the purchase of a portion of the water system operated by Crocker Estate Company, has joined with Crocker Estate Company in an application to this Commission to have fixed the value of the component parts of that water system which might be taken over to advantage by said municipality.

Daly City has voted $100,000.00 of bonds for the construction of a water system, the extent of which would cover the district known as the Crocker Tract, and hence confiscate any system already built, should the complete plan be carried out. It has not been the desire of the municipal authorities, however, to cause any unnecessary loss to any utility operating within its incorporate limits.

The Commission has been asked to place a value upon the various units of the Crocker water system so that the authorities of Daly City could decide which of the units they desired to purchase with the money which is available from the bond issue.

A careful inspection of the properties involved in this application was made by three engineers—one for Daly City, one for Crocker Estate Company, and the Commission being represented by the third. Independent valuations were made by each engineer and it was found that there was very little difference of opinion as to the value of the property.

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The engineer for Daly City, Mr. F. C. Roberts, had made his valuation some eighteen months ago and was not entirely prepared with a valuation of this date, but agreed almost entirely with values found by Mr. H. F. Clark for the Commission. Mr. T. B. Hunter, engineer for the Crocker Estate Company, found a present value of $32,187.00, which was about $1,300.00 higher than the value found by the Commission's engineer. The difference occurred mostly in the item of real estate.

The engineer for the Commission reported that the present value of the property as inventoried in the formal application and amended slightly at the time of the hearing, was $30,816.00. This amount did not include the entire property of Crocker Estate water system, as certain property such as the tank lots was not to be used by the city.

Daly City has contracted for the expenditure of the greater portion of the $100,000.00 bond issue and the remainder now available is insufficient to allow a payment of $30,816.00 for the Crocker Estate system, although it was agreed that the $30,816.00 was a fair price for that system.

I think that Daly City has shown a commendable spirit in desiring to purchase the portions of the Crocker system which it is possible to use, and I hope that some agreement may be reached by the parties in this case so that the purchase may be consummated at a price within reach of the city.

Therefore I shall make no order at this time, preferring to await the outcome of negotiations between the city and Crocker Estate Company, who feel more competent to act, now that they know the value which has been found by the engineer for the Commission. Should some amicable agreement be reached, it will be necessary for this Commission to authorize the transfer of the property at the price agreed upon, and I will recommend an order to that effect whenever I am advised by the applicant as to the price agreed upon.

The matter will now be left *in statu quo*, pending further developments in negotiations between the parties.

The foregoing opinion is hereby approved and ordered filed as the opinion of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of July, 1914.

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Decision No. 1677.

IN THE MATTER OF THE APPLICATION OF THE CLAREMONT DOMESTIC WATER COMPANY FOR ORDER AUTHORIZING AN ADVANCE IN RATES FOR DOMESTIC WATER IN THE CITY OF CLAREMONT, CALIFORNIA, AND IN THE RATES FOR IRRIGATION WATER USED ADJACENT THERETO.

Application No. 1144.

Decided July 18, 1911.

Applicant applies for permission to increase its rates for water for domestic purposes from a minimum of $1.25 for first 500 cubic feet to $1.50 for this amount and to reduce its discounts for prompt payment from 20 to 10 per cent, to increase its rates for water for irrigation purposes from 3 cents to 4 cents per miner's inch per hour, and to fix a proper rate per hydrant for fire protection.

Held, That the present rates of applicant for domestic and irrigation purposes are sufficient to produce a fair return upon applicant's plant value; applicant directed to lay a ten-inch main to serve fire hydrants and authorized to increase the rates therefor from $4.00 per year to $2.00 per month after such installation. Rate of 15 cents per thousand gallons established for water for street sprinkling purposes.

Geo. S. Sumner, for Applicant.

Russell K. Pitzer, for City of Claremont.

Report of the Commission.

Loveland, *Commissioner.*

The Claremont Domestic Water Company is engaged in the business of supplying water for domestic and irrigation purposes to residents of the city of Claremont, California, and in territory adjacent thereto and also of supplying the city of Claremont water for street sprinkling and fire protection.

The present rates of applicant within the city of Claremont were fixed by the board of trustees of said city and became effective on the 19th day of May, 1913, as shown in Ordinance No. 88 of said city, such rates being on file with the Railroad Commission of the State of California. Under these rates the consumer was required to pay a minimum rate for the first 500 cubic feet, or less, of $1.25 per month. For each additional 100 cubic feet to 2,500 cubic feet, 15 cents per month. For each 100 cubic feet over 2,500 cubic feet, 12½ cents per month, with the discount on the above prices of 20 per cent if bills were paid on or before the fifteenth of each month.

Applicant asks that the minimum rate for the first 500 cubic feet be made $1.50 per month; that for additional use over 500 cubic feet the additional price remain the same as at present, but that the discount for payment before the fifteenth of each month be made 10 per cent instead of 20 per cent as at present.

Applicant also asks that for the purpose of these rates each store, office, house, apartment, or separate household shall be counted as a

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separate user and pay not less than the minimum rate hereinbefore stated; and further asks that a rate for irrigation water outside the city be fixed at 4 cents per miner's inch per hour; and that the rate for fire hydrants and street sprinkling for the city of Claremont be fixed by the Railroad Commission of the State of California at such rate as the Commission considers equitable and just.

On the 6th day of February, 1914, the city of Claremont voted to turn over to the Railroad Commission jurisdiction as to public utilities formerly vested in the city. At the hearing held for this application, the city asked that the Commission ascertain and fix just rates, whatever they might be; so in the consideration of this application of the Claremont Domestic Water Company it may be considered that the Commission is acting on the request of both parties in interest.

The Claremont Domestic Water Company alleges in its application that the present rates as quoted above have not produced a reasonable income on the capital invested.

Historically, the Claremont Domestic Water Company is successor to the Citizens' Light and Water Company, which company made application to the Commission in June, 1913, for permission to sell to the Claremont Domestic Water Company 7,005 shares of stock at $10.00 par value, alleging that the value of the property had been appraised jointly by the city and the Citizens' Light and Water Company at $89,645.00. By stipulation, the testimony and exhibits introduced at that time under Application No. 501 have been made a part of the proceedings in this application.

The present application was heard in the city of Claremont, California, on June 20, 1914, and the history of applicant was reviewed from the time it was first established. Testimony showed that by the usual steps which occur with small water companies the dividends from year to year were declared in the form of additional stock and the net income invested in the system.

It appears that about $37,000.00 or $38,000.00 was the actual cash investment, although it was claimed that services of officers had been gratis to the company to the amount of several thousands of dollars. Little by little the amount of outstanding stock increased until the Citizens' Light and Water Company had about 5,400 shares outstanding, representing an alleged investment of $54,000.00. In addition to this, applicant, the Claremont Domestic Water Company, as successor in interest to the Citizens' Light and Water Company, claims an additional investment of $15,000.00, which claim arises from an alleged expense by applicant, or its predecessor, of said amount of $15,000.00 to protect their wells from possible reduction in the flow of said wells due to other wells being drilled near by. Adding to this the alleged value of water developed and undeveloped, applicant, the Clare-

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mont Domestic Water Company, claims the value of its properties in excess of $100,000.00, although it does not ask that that value be used for rate-fixing purposes.

At the hearing the valuation which was presented to the Commission by the Citizens' Light and Water Company in June, 1913, under Application No. 501, was again presented to the Commission by the Claremont Domestic Water Company as the valuation of applicant's property, and this valuation plus additions to the plant subsequent to June, 1913, was offered as a basis for rate-fixing purposes. The valuation presented by applicant, other than as to the valuation of water and water rights, was not contested, and the testimony at the hearing was principally directed to an effort to prove the value of water and water rights.

It appeared that applicant, the Claremont Domestic Water Company, had purchased of Mr. C. T. Naftel forty acres of water-bearing land in the southeast quarter of section 33, township 1 north, range 8 west, S. B. M., for the sum of approximately eleven hundred (1100) dollars; that thereafter applicant had sold all but about seven acres of said forty acres at about three hundred and fifty (350) dollars per acre.

Realizing or believing that the channel of the underground flow of water ran underneath the remainder of said southeast quarter of section 33, as above described, the Claremont Domestic Water Company secured from Mr. Naftel the right to develop water in the northeast quarter of said southeast quarter in such quantities as it desired, Mr. Naftel retaining the privilege of developing water, but only for use on said northeast quarter of said southeast quarter of section 33.

Applicant obligated itself to sink a 14-inch well on said northeast quarter of said southeast quarter of section 33 and to furnish to said Naftel water to irrigate said northeast quarter of said southeast quarter of section 33 at cost, cost being defined as to include all items of expense in connection with the operation of the plant, including depreciation and engineer's salary. This agreement with said Naftel, applicant desires to capitalize for $15,000.00, such amount being the $15,000.00 above mentioned as having been spent to protect its water rights.

It may be said in passing that it will be difficult to justify this claim for the reason that applicant, under the agreement, receives from said Naftel the cost of producing the water used by said Naftel, and a liberal interpretation of the term "cost" would place said Naftel in about the same position as any outside user of water.

The agreement further binds applicant, subject to its having the water, to furnish water at the same price, to wit, cost, and under the same conditions and in such quantities as may be necessary to properly irrigate the northwest quarter and the southeast quarter of the south-

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east quarter of section 33, township 1 north, range 8 west, S. B. M., the consideration named in the contract for such service being $1.00.

It was stipulated in the agreement between the Claremont Domestic Water Company and said Naftel that the cost which should be charged to said Naftel should be adjusted at different periods and as the present was the time for such adjustment the Commission was asked to fix the cost or price to be paid by such Naftel for the ensuing period.

It developed at the hearing that there is a disagreement in the interpretation of the contract between applicant and said Naftel and as the whole matter between applicant and said Naftel is comprehended in the contract heretofore entered into and under which said parties have been operating, I do not believe that the jurisdiction of the Railroad Commission should be extended to cover contractual relations entered into long previous to the effective date of the Public Utilities Act, unless the Commission finds that public necessity requires the setting aside or modification of such contract.

The Claremont Domestic Water Company furnished our Engineering Department with a tabulated record of the water pumped and the water sold. It was found that an average of 22 miner's inches has been pumped for domestic use, but that only about 13 miner's inches were actually delivered, showing a loss of 42 per cent of the water pumped. This loss is abnormal and has added to the pumping expense which the city has to bear. Such a condition should be remedied at once by the company and steps taken to locate the loss.

The Claremont Domestic Water Company, through its president, Mr. Gillett, stated that applicant was satisfied with the present rates for water providing applicant was not asked to hold any surplus water in reserve for the future necessities of the city of Claremont.

Applicant therefore asked that the city of Claremont specify the quantity of water which the city desired to have held in reserve for future growth of the city's needs and to agree that applicant dispose of the surplus as it saw fit. The members of the council were unwilling to pass upon that point, preferring to leave it to the judgment of the Railroad Commission.

From an analysis of the expenses of maintenance and operation of applicant's property as will appear later in detail, I have found, after allowing interest on investment, depreciation and expense of maintenance, an apparent profit of $1,511.05. This sum of $1,511.05 when capitalized at 7 per cent shows that interest has been received on a sum of at least $21,600.00. Using the value of $600.00 per miner's inch which was suggested by the company and embodied in the valuation of their water rights, I find that this sum, $21,600.00 would represent the inclusion in capital account of a value for about 36 miner's inches of water. I therefore find that the present rates charged for water are

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sufficient to return the necessary revenue upon the property used and useful in the operation of this utility, and also interest at 7 per cent on the value of 36 miner's inches, and this sum of 36 miner's inches is the quantity of water which I shall state to be the maximum amount under the present rates which shall be reserved for domestic use for the city of Claremont. I do not think that the city should be required to pay rates on any greater amount of water than this which I have found herein, and the company should have the privilege of marketing their surplus to the best advantage among irrigation users adjacent to Claremont.

Applicant has asked that each store, office, house, apartment, or separate household shall be counted as a separate user and pay not less than the minimum rate as fixed. Such a rule, with somewhat different wording, appears in Ordinance No. 88 of the city of Claremont. If applicant is willing to provide independent services and meter each store, etc., from which the minimum charge is collected, I see no injustice in such a rule.

The city of Claremont should awaken to the importance of owning its own water system if it expects to have need, in the future, for the total yield of the wells which applicant owns. At some future date, however, if the city finds that its domestic needs will soon exceed the supply of 36 inches, it would be possible for the city to apply to the Commission to have enforced the state amendment passed in 1913, which authorizes this Commission, upon due investigation, to order any utility to cease adding customers to its system.

My reason for believing that the present rates are amply remunerative upon the investment will appear from the following: The hydraulic engineering department of the Commission made an extensive investigation of the situation, examining carefully the books of the company and the condition of the system. The value of the physical property was found to be $45,964.00 without any deduction for accrued depreciation. In this amount, only such property was included as is used and useful to the operation of the system, and an allowance for overhead expenses has been made therein. Our engineers found from the books of the company the following conditions:

(*a*) Total receipts, twelve months ending June 1, 1914:		
Commercial sales	$11,257 13	
Fire hydrants	204 00	
Street sprinkling	25 25	
Irrigation use	1,132 20	
		$12,618 58
(*b*) Total expenses, same period:		
Maintenance and operation	$6,651 27	
Seven per cent interest on investment	3,217 48	
Sinking fund, 4 per cent	1,238 78	
		11,107 53
Apparent profit		$1,511 05

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It was found that two items, one of interest on an $8,500.00 note and another an amount which was properly new capital invested, had been erroneously included in the operating expenses, and these were accordingly removed.

The request of the Claremont Domestic Water Company to be allowed to charge 4 cents per hour-inch for irrigation was opposed by irrigation users upon the ground that the prevailing rate for irrigation water in that vicinity was 3 cents per hour-inch.

The Claremont Domestic Water Company admitted under cross-examination that it did not have to maintain any system of irrigation mains, but sold water at an outlet from the reservoir, so that in fixing such rates the investment in the pumping plant would be the main consideration.

The testimony introduced tended to show that irrigation water was sold in the vicinity of Claremont for 3 cents per inch-hour. The average power cost per miner's inch per hour for the water which is secured from pumping plant No. 1, has averaged from two thirds to 1 cent. Experience in the segregation of expenses of many water companies has shown that the maintenance and operation expense should average 40 per cent of the gross income of a water utility. Applying this percentage to the cost at 1 cent per inch-hour for power, it is found that 2½ cents per inch-hour would be sufficient to make the usual return necessary to a water company. The capital upon which a reasonable return should be received for the supply of irrigation water only is merely the cost of the wells and pumping plant, as no item of expense has been incurred for irrigation pipe lines. Therefore, I am not inclined to allow the larger rate of 4 cents per inch which the applicant has asked.

In the matter of the fire hydrant rental, the Commission has been asked to set a fair rate. An analysis of the pipe system in Claremont has been made by our engineering department, and we find that the pipe system, as a whole, is of small diameter. The city has been paying $4.00 per year for each of the fire hydrants in the past. The usual rate in similar cities for fire hydrant rental is between $1.50 and $2.50 per hydrant per month, but when such payment is secured, the supply of water is sufficient to furnish two or more fire streams simultaneously.

The company has undertaken the responsibility of furnishing fire protection to the city of Claremont, as evidenced by the revenue received from the city therefor, and applicant having assumed this responsibility, it is now the duty of this Commission to see that proper service is rendered. I will recommend that applicant construct a new pipe line from its reservoir to the business district of town, thereby reenforcing the supply of water available throughout the city for fire protection. For each fire hydrant which is supplied from a four-inch

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pipe, or larger, after this new main is laid, I will recommend the rate of $2.00 per month. If the fifty hydrants now on the system be used on the new system, the revenue therefrom will exceed the annual interest on the investment.

The rate for water used in street sprinkling has been $1.50 per day for each sprinkling wagon in use. There is no record of the amount of water used and no measure by which to justify this rate. I consider that a rate of fifteen (15) cents per thousand gallons for the water used for street sprinkling will be commensurate under the conditions existing in Claremont.

The Commission received a letter from Mr. Naftel on June 11, 1914, asking that the Commission fix the rate which he should pay for water, when the other rates were adjusted. The agreement with Mr. Naftel called for an adjustment of the rates every five (5) years, and the time was near for a readjustment. Applicant has been charging Mr. Naftel one dollar ($1.00) per hour for the use of the pumping plant. There has been no measurement of the water. The water is pumped up hill to the corner of the tract and is used directly from the pipes. When pumping for the lower districts, a stream of 35 miner's inches is secured, but this amount is not the quantity discharged when pumped for the greater lift. A total of 622 hours is the record of hours pumped during the last twelve months, bringing an income of $622.00. The power cost has been about 35 cents per hour, or a total of $217.00, leaving $405.00 to cover the expense of operation, such as attendance, depreciation, etc. During the year just past, the same plant was used 1,041 hours for pumping water for the city system, and therefore 63 per cent of the sinking fund annuity of $271.65 is chargeable to other users than Mr. Naftel. The share which Mr. Naftel should bear is only about $100.00, leaving $305.00 to care for the attendant's wages at the plant and miscellaneous expenses, which I consider reasonable. I therefore do not find it necessary to change the rate for the water used by Mr. Naftel.

For these reasons, I recommend the disposition of this application as shown in the order following:

ORDER.

It is hereby ordered that the application for an increase in the rates for domestic water be and the same is denied.

It is hereby further ordered that the application to increase the rate for water furnished for irrigation outside the city of Claremont be and the same is hereby denied.

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It is hereby further ordered that the rate for water used for street sprinkling purposes be hereafter measured and that the rate therefor be 15 cents per thousand gallons.

It is hereby further ordered that applicant construct a new pipe main from its reservoir to the business district of the city to insure adequate fire protection; that said main be not less than 10 inches in diameter.

It is hereby further ordered that the rate for each fire hydrant served from mains of not less than 4 inches in diameter be $2.00 per month, the charging of such rate to commence upon the completion and placing in service of the 10-inch main referred to above in this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 18th day of July, 1914.

DECISION No. 1678.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION FOR AUTHORITY TO ISSUE NOTES.

Application No. 1238.

Decided July 21, 1914.

Applicant authorized to issue its promissory notes, aggregating the sum of $82,058.25, in renewal of notes of a like amount now due.

F. E. Boland, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Oro Electric Corporation for permission to renew certain notes hereinafter specified. It appears that the moneys derived from the notes to be renewed were expended for the purchase of materials which have been used in the construction of applicant's system and that the granting of this application will not increase the indebtedness of applicant.

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I recommend that the application be granted, and submit the following form of order:

ORDER.

Oro Electric Corporation having applied to this Commission for authority to issue its promissory notes in renewal of the following notes:

Payee	Date of note	Date of maturity	Amount
Contra Costa Construction Company	Aug. 15, 1913	Oct. 15, 1914	$564 32
	Aug. 15, 1913	Nov. 15, 1914	564 32
Howard Automobile Company	Aug. 15, 1913	Sept. 15, 1914	409 32
	Aug. 15, 1913	Oct. 15, 1914	409 32
Llewellyn Iron Works	Aug. 15, 1913	Sept. 15, 1914	225 00
	Aug. 15, 1913	Oct. 15, 1914	225 00
Lewis & Cowell	Aug. 15, 1913	Nov. 16, 1914	607 33
	Aug. 15, 1913	Nov. 15, 1914	607 33
Pacific Electric Mfg. Company	Aug. 15, 1913	Oct. 15, 1914	296 59
J. A. Roebling's Sons Co. of California	Aug. 15, 1913	Oct. 15, 1914	758 43
	Aug. 15, 1913	Nov. 15, 1914	758 43
Standard Underground Cable Company	Aug. 15, 1913	Oct. 15, 1914	890 72
Western Electric Company	Aug. 15, 1913	Sept. 15, 1914	434 16
	Aug. 15, 1913	Oct. 15, 1914	434 16
American Electrical Works	Aug. 15, 1913	Aug. 15, 1914	261 80
Allis-Chalmers Mfg. Company	Aug. 15, 1913	Aug. 15, 1914	131 25
	Aug. 15, 1913	Aug. 15, 1914	437 50
E. V. Burke	Sept. 15, 1913	Sept. 15, 1914	250 00
Burroughs Adding Machine Company	Oct. 1, 1913	Oct. 1, 1914	690 00
Contra Costa Construction Company	Aug. 15, 1913	July 15, 1914	564 32
	Aug. 15, 1913	Aug. 15, 1914	564 32
Dunham, Carrigan & Hayden Co.	Aug. 15, 1913	Aug. 15, 1914	365 22
General Electric Company	July 10, 1913	May 10, 1914	5,000 00
	July 10, 1913	June 10, 1914	5,000 00
	July 10, 1913	July 10, 1914	5,000 00
	July 10, 1913	July 10, 1914	7,617 35
	July 10, 1913	July 10, 1914	8,782 60
Howard Automobile Company	Aug. 15, 1913	July 15, 1914	$409 32
	Aug. 15, 1913	Aug. 15, 1914	1,364 43
Holt Manufacturing Company	Aug. 15, 1913	Aug. 15, 1914	120 78
	Aug. 15, 1913	Aug. 15, 1914	402 64
Judson Manufacturing Company	Aug. 15, 1913	Aug. 15, 1914	81 42
	Aug. 15, 1913	Aug. 15, 1914	271 51
Llewellyn Iron Works	Aug. 15, 1913	July 15, 1914	225 00
	Aug. 15, 1913	Aug. 15, 1914	750 00
Lewis & Cowell	Aug. 15, 1913	July 15, 1914	607 33
	Aug. 15, 1913	Aug. 15, 1914	607 33
	Aug. 15, 1913	Aug. 15, 1914	2,024 49
Chas. C. Moore & Co., Engineers	Aug. 15, 1913	July 15, 1914	1,806 25
	Mar. 16, 1914	July 15, 1914	1,806 25
	Aug. 15, 1913	Aug. 15, 1914	1,806 25
	Aug. 15, 1913	Aug. 15, 1914	10,134 89
Pacific Hardware and Steel Company	June 15, 1914	Sept. 15, 1914	484 60
Pacific States Electric Company	Aug. 15, 1913	July 15, 1914	239 68
	Aug. 15, 1913	Aug. 15, 1914	239 68
	Aug. 15, 1913	Aug. 15, 1914	798 96

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Payee	Date of note	Date of maturity	Amount
	Mar. 16, 1914	Sept. 15, 1914	350 74
	Mar. 16, 1914	Oct. 15, 1914	300 00
	Mar. 16, 1914	Nov. 15, 1914	300 00
Pacific Electric Manufacturing Co.----	Aug. 15, 1913	Aug. 15, 1914	296 59
	Aug. 15, 1913	Aug. 15, 1914	988 75
Pierson, Roeding & Co.----------	Aug. 15, 1913	Aug. 15, 1914	438 27
	Aug. 15, 1913	Aug. 15, 1914	1,460 97
J. A. Roebling's Sons Co. of California	Aug. 15, 1913	July 15, 1914	758 43
	Aug. 15, 1913	Aug. 15, 1914	758 43
	Aug. 15, 1913	Aug. 15, 1914	2,528 15
R B. Swayne----------	Aug. 15, 1913	Aug. 15, 1914	571 10
Standard Underground Cable Company	Aug. 15, 1913	Aug. 15, 1914	850 72
	Aug. 15, 1913	Aug. 15, 1914	2,842 79
United States Steel Products Company	Sept. 2, 1913	June 2, 1914	1,338 34
Western Electric Company----------	Aug. 15, 1913	Aug. 15, 1914	434 16
	Aug. 15, 1913	Aug. 15, 1914	1,447 21
Western Pipe and Steel Company------	Aug. 15, 1913	Aug. 15, 1914	364 00
Total ----------	----------	----------	$82,058 25

It is hereby ordered that Oro Electric Corporation be, and it is hereby authorized to issue its promissory notes in renewal of the notes above mentioned, upon the following conditions, and not otherwise, to wit:

1. The face value of the notes issued shall not exceed the face value of the notes renewed.

2. The rate of interest of the notes issued shall not exceed 7 per cent per annum, nor the term of any note extend beyond September 15, 1915.

3. Applicant shall make a verified report to this Commission of all notes issued in accordance with this order, specifying the notes which have been renewed thereby.

4. The authority herein granted to issue notes shall apply only to notes issued on or before December 31, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of July, 1914.

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Decisions Nos. 1679, 1680, and 1681, grade crossings; not printed. See end of volume.

DECISION NO. 1682.

IN THE MATTER OF THE APPLICATION OF UNITED STATES LONG DISTANCE TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO SELL COUPON BOOKS AT A DISCOUNT.

Application No. 1221.

Decided July 24, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Upon the written request of the applicant in the above entitled matter, it is hereby ordered that the application be and it is hereby ordered dismissed.

The foregoing order of dismissal is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of July, 1914.

DECISION NO. 1683.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO INSTALL A TELEPHONE PLANT AT PALMS, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 1219.

Decided July 24, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The Pacific Telephone and Telegraph Company having on July 24, 1914, made written request to this Commission that the above entitled application be dismissed,

It is hereby ordered that said application be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 24th day of July, 1914.

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DECISION NO. 1684.

KERN COUNTY MERCHANTS ASSOCIATION

vs.

CALIFORNIA NATURAL GAS COMPANY.

Case No. 357.

Decided July 24, 1914.

Application of defendant for a rehearing in the above entitled matter, on the grounds that the returns allowed do not permit of a fair return upon the value of the property, denied.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner.*

OPINION ON PETITION FOR MODIFICATION OF ORDER.

On June 11, 1914, this Commission denied the application of the Bakersfield Gas and Electric Company for a rehearing in the proceeding connected with the one here under consideration. In the same opinion it was the intention to deny the application of the California Natural Gas Company, and it was not until it was urged that this Commission had not denied the application of that company and on investigation of the opinion it was found that San Joaquin Light and Power Corporation was used in conjunction with the Bakersfield Gas and Electric Company, instead of California Natural Gas Company, that I learned that in rendering the decision this inadvertent substitution had been made. Under the Public Utilities Act, however, failure to deny an application for rehearing within a certain time after filing constitutes a denial of the application.

However, inasmuch as the record is in the condition stated and the California Natural Gas Company still insists that it should have a rehearing, it may be well to comment upon its contention.

Petitioner relies upon the result of certain arbitrary computations to justify its contention that the rate of 12.75 cents per thousand cubic feet allowed by the Commission for natural gas distributed by the Bakersfield Gas and Electric Company to domestic, commercial and industrial consumers in the city of Bakersfield and the rate of 7 cents per thousand cubic feet for natural gas supplied to the steam plant of the San Joaquin Light and Power Corporation or other large consumers supplied from the high pressure trunk lines of the Bakersfield company, will yield a return of only 6.08 per cent on the value of its plant devoted to such service. In this connection it is interesting to note that petitioner now contends that the proper basis for establishing rates for natural gas in this case is that adopted by Mr. Hoar, the Commission's gas and electrical engineer, in his preliminary report and explained by him at some length at the hearing on April 9, 1914,

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at which time petitioner interposed serious objection to this same basis. Briefly, Mr. Hoar's theory was that all gas supplied through petitioner's high pressure transmission lines should, irrespective of the ultimate use of the gas, bear an equal proportion of all the costs connected with its production, transmission and delivery. With this full cost theory the Commission is inclined to agree and would in all probability have adopted it in this case if petitioner had not contended so insistently that it should not be deprived of its fuel gas sales to the San Joaquin Company's steam plant. Petitioner's theory at the time of the hearing was that it was justified in making a much lower rate for fuel gas than for gas supplied at wholesale for general distribution purposes, owing to the fact that fuel gas must be sold at a price which would permit its use in competition with fuel oil from the adjacent oil fields, and that only certain costs should be prorated to such fuel gas, because its use would be subject at all times to the demands of other consumers, and no additional pipe line capacity or operating expense would be required. Petitioner's position in regard to this matter is clearly outlined in the following extract from the Transcript (Tr. pp. 393-395):

> COMMISSIONER ESHLEMAN. I would like to state that I consider that one of the very important questions in this case. Of course, it is well established that you can't run a part of your business at an actual loss even under competition. The Supreme Court has determined that in many cases. Now, as a matter of fact, in computing the actual out-of-pocket cost of getting this gas to the steam plant, if in doing that you find that you are not getting as much as it cost you, you ought to quit it or raise the rate, don't you think so?
>
> MR. SUTRO. Yes, except as the industrial gas business has always been sold in competition with fuel.
>
> COMMISSIONER ESHLEMAN. And you sell it for what you can get.
>
> MR. SUTRO. You sell it for what you can get, and you don't charge to that business the elements that you charge to the business on which you expect to make a profit. It has been said that the domestic consumer pays the freight for that sort of business, but he really does not because your pipe line is in and you are going to serve him anyhow, and for what industrial gas you can handle you are handling that much more on the volume and make that much more in the way of a gross profit.
>
> COMMISSIONER ESHLEMAN. That is one side of it, but when you compute the actual costs—that is what I mean. Of course, some of these costs have to be located and are the result of segregations, and as to their correctness there may be some doubt, but suppose now you had to pay 5 cents for your gas and you were selling it at 4; you know you could not do that, don't you?
>
> MR. SUTRO. Yes, you know you could not do it because you have a fixed expenditure there chargeable to that particular business.
>
> COMMISSIONER ESHLEMAN. Yes. Now, if the actual additional cost which is required to be—expenditure which is required to be

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made by this company that would not be required to be made if you didn't deliver this gas to the steam plant, added to the 5 cents, brought a result which was equal to the amount you get for it, you had just as well go out of business, and if it is more than you get for it you ought to go out of business, isn't that true?

MR. SUTRO. Absolutely; but that, Mr. Commissioner, is not the fact, unless you charge the industrial gas business with its proportion of the overhead expense and its proportion of the general operating expense. The only expense directly chargeable, as I understand it, to the industrial gas business would be the cost of the gas at the well and the taxes on the revenue derived from that business. The remaining investment is there and the remaining expenses are there and will go on just the same.

On petitioner's "excess cost" theory, a modified version of which the Commission adopted under the circumstances of this particular case, it is obvious that no additional expense or investment would be required to deliver fuel gas to Bakersfield for use at the steam plant of the San Joaquin Light and Power Corporation, consequently the segregation of investment and operating expense would be as shown under basis No. 2 in Tables XI and XII of the Commission's decision in this case. In Table XI we accordingly find that the investment is $91,434.85 and the depreciation annuity $6,078.65. Now, if we continue to follow the theory which petitioner contended for at the hearing of this case the operating expenses, as shown in Table XII, excepting an increase for additional gas purchased, will not be increased over those applicable to Bakersfield distribution service alone in the event that fuel gas is used at the San Joaquin Company's steam plant, and we then have the following condition:

TABLE I.

Cost of Service. California Natural Gas Company to Bakersfield.

Investment		$91,434 85
Interest at 8 per cent	$7,314 79	
Depreciation	6,078 65	
Total fixed costs		13,393 44
Cost of gas purchased	$19,787 35	
Expense of operation (prorated)	3,961 53	
Taxes	1,790 93	
Total operation cost		25,539 81
Total cost of service		$38,933 25

TABLE II.

Estimated Revenue from Gas Sales During 1914.

236,235,232 cubic feet at 12.75 cents per thousand cubic feet	$30,119 99
166,068,528 cubic feet at 7.00 cents per thousand cubic feet	11,624 80
Total revenue	$41,744 79

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From the above tables it will be evident that the revenue, after deducting $129.33 excess taxes, is $2,682.21 more than sufficient to take care of all fixed and operating costs and corresponds to a return of 2.9 per cent upon the investment over and above the 8 per cent already allowed, or a total return of 10.9 per cent. Upon the same theory, had the Commission been willing to accept it without modification, assuming 7 cents as the rate for fuel gas, the price of gas for distribution purposes would have been fixed at 11.6 cents per thousand cubic feet instead of 12.75 cents, because at the former rate the total revenue would have been equal to the cost of service. However, the Commission was not satisfied that petitioner's theory of excess cost was entirely sound and for this reason the additional revenue amounting to $2,682.21 was allowed to take care of any additional expense chargeable only to the production and transmission of boiler fuel gas.

In regard to the investment amounting to $91,434.85 prorated to Bakersfield service, I desire to call particular attention to the fact that petitioner has already accepted this same basis in connection with Case No. 562, where the same segregation was used to obtain the cost of service at Taft.

I further desire to point out the fact that upon petitioner's own showing it is earning a return in excess of 20 per cent on the investment which has not been prorated to the Bakersfield service, and that even if no segregation of investment had been made in this case and all of its rates had been reduced to 7 cents per thousand cubic feet of gas sold, including sales in the Bakersfield district, petitioner would still be earning a return, based on sales during 1913, of at least 8 per cent on its entire investment after proper deduction for all costs of operation as claimed, including petitioner's own allowance for depreciation.

Nothing has been presented that has changed my previous view that this application should be denied. The rates prescribed should go into effect on the date required.

I submit the following order:

ORDER.

California Natural Gas Company having filed its application for rehearing in the above entitled proceeding, and the matter being carefully considered,

It is hereby ordered that the application be and the same is denied, and the rates established shall be effective concurrently with the rates heretofore put into effect by the previous order of this Commission for the Bakersfield Gas and Electric Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of July, 1914.

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Decision No. 1685, grade crossing; not printed. See end of volume.

DECISION NO. 1686.

IN THE MATTER OF THE RATES AND SERVICE OF SAN GORGONIO WATER COMPANY AND BEAUMONT LAND AND WATER COMPANY.

Case No. 308.

Decided July 28, 1914.

At rehearing in the above entitled case respondents submitted proposed rules and regulations, which, with certain alterations and amendments have been approved and ordered into effect within thirty days. A minimum rate of $1.25 for houses of five rooms or less for domestic service, with a minimum rate of $6.00 per acre per annum, payable quarterly in advance, entitling consumer to 200 hour inches per acre, with an additional charge of 1½ cents per miner's inch hour for all water in excess of this amount, established, to become effective within thirty days.

Waters & Goodcell and *H. L. Carnahan*, for San Gorgonio Water Company and Beaumont Land and Water Company.

E. A. Miller, for A. C. Stower.

E. C. White and *F. S. Lanning*, for Water Consumers.

May M. Gray, in propria persona.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

SUPPLEMENTAL OPINION ON REHEARING.

My attention has been called to misstatement of facts and errors in the opinion and the order attached thereto, dated July 9, 1914, and I therefore recommend the adoption by the Commission of this as a supplemental opinion and order, and that the order heretofore made herein on the 9th day of July, 1914, be cancelled and annulled.

On April 25, 1913, this Commission made its order herein, and thereafter San Gorgonio Water Company and the Beaumont Land and Water Company applied for a rehearing, and thereafter on the 15th day of August, 1913, this application was granted and a rehearing was ordered.

This rehearing was had, additional testimony was introduced, and the matter is now before the Commission for final decision.

It was decided in the order heretofore rendered that both the San Gorgonio Water Company and the Beaumont Land and Water Company were public utilities, and there has been no evidence introduced and no additional argument made which changes my views in this regard.

The San Gorgonio Water Company is admitted to be a public utility company by its representatives. It is serving the citizens of the city of Beaumont, an incorporated town, with water for domestic, and

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some irrigation use, and it has held itself out to serve the citizens of that town with water for these purposes.

The Beaumont Land and Water Company has served water for compensation to consumers upon land in a certain district and has served water in wholesale quantities to the San Gorgonio Water Company, which company in turn, has served this water for compensation to consumers in the city of Beaumont. This, under all the definitions in the Public Utilities Act as to what constitutes a public utility water company, clearly establishes the Beaumont Land and Water Company as a public utility water company, and under the jurisdiction of this Commission.

The Beaumont Land and Water Company contends that if it be not allowed to charge $50.00 per acre for a water right, that it should be allowed to charge a reasonable minimum advance payment for water, in order that it be protected against a consumer who, while having the right to the use of water, refuses to use the same or to pay therefor, resulting not only in depriving the water company of revenue, but preventing it from delivering this water to other consumers ready and willing to take and pay for the same.

At the hearing the two companies presented a proposed schedule of rates and rules and regulations, the principal change from the present rate embodied therein being the establishment of a flat or stand-by charge of $6.00 per acre, payable for each year by all the lands desiring service from the company, and the proposed rules provided that should the holder of such lands refuse payment for any one entire year, the company could then consider the right to receive water abrogated and could sell the water to other equal areas. Later the companies changed this $6.00 per acre charge to a minimum charge of $8.64.

The consumers announced at the hearing that they had no objection to the payment of a reasonable minimum, and to a rule which would compel the use of water or the giving up of the right to its use.

I believe that a consumer has no right to compel a company to stand ready at all times to serve him with water with no reciprocal duty upon his part to take such water or to pay therefor. It is a fair rule that while the company should deliver water to consumers at reasonable rates, on the other hand it is the duty of the consumer to take and use such service, and if he is not willing to do this, that he lose his right to the service, which right may thereafter fall to others, willing to make use of the water.

This leaves for consideration a fair rule to bring this about, and I believe that the establishment of a just minimum rate payable in advance is a proper method. If a consumer fails to pay this minimum rate within a specified time, he should lose all precedence to the use

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of water and should give way to all other consumers willing to pay the established rates.

The company has presented a complete set of rules embodying a schedule of rates, a discussion of which will cover the whole matter under consideration.

These rules are in large part proper, and will receive approval. Certain of the rules must, however, be changed, at least in part, and I will discuss the more vital revisions.

Rules—Beaumont Land and Water Company.

GENERAL RULES.

The general rules will be practically unchanged.

Irrigation Service.—Rule 4 provides for the payment of a stand-by charge of $6.00 per acre per annum, payable at the rate of 50 cents per month for each acre, or portion thereof, of the individual contract demanding irrigation service. During the hearing before the Commission considerable opposition developed against this form of charge, it being desired by the consumers that a minimum rate instead be established for which the consumer would be entitled to some certain amount of water. This was virtually agreed to by the officials of the company who have, subsequent to the hearing, intimated their desire that a charge of $8.64 per annum be established by the Commission. This appears to the Commission to be excessive, in view of the financial history of the company and the amounts that have been paid in the past by irrigation consumers.

The amount of water to be delivered by the company under this minimum charge was suggested by the company to be allowed at the present rate of 3 cents per miner's inch hour.

Sufficient investigation was made into the cost and present values claimed for the companies by their engineers to ascertain that reasonable rates applied upon the present use could not provide full returns on the value however determined.

Therefore, it is deemed unnecessary to fix the actual values of the properties at this time.

The available water supply of defendant was a subject of testimony and subsequent investigation.

The water supply received into the system of the Beaumont Land and Water Company during the year 1913 was as follows:

Pumping from wells No. 1, No. 2, No. 3, No. 4 and No. 7	100,000 miner's inch hours.
Gravity flow from creeks	123,000 miner's inch hours.
Gravity flow from well No. 6 (estimated at 8 miner's inches continually)	70,000 miner's inch hours.
From Noble Canyon (estimated at 7 miner's inches continually)	61,000 miner's inch hours.
	354,000 miner's inch hours.

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This is very nearly equivalent to 192,000,000 gallons, or 25,600,000 cubic feet, or an average flow of 41 miner's inches throughout the year.

During 1913 wells No. 1, No. 2 and No. 3, operated by air lift, ran only 861 hours during the irrigation season, which may be assumed to be of 200 days' duration at least. Allowing one sixth time for necessary cessation of service for repair, renewals, and other necessary causes, there would still remain a possible 4,000 hours during which this plant could and should be able to operate, and the company would have available the additional supply provided by the operation of 4,000 hours instead of 861 hours. Similarly, shaft No. 4 operated only 111 hours and well No. 7 operated 861 hours. During the month of greatest demand, August, the plants were operated about one third of the time, so that at least three times the demand dependent upon these sources of supply could reasonably be met by running full time.

The gravity sources in Edgar and Noble creeks, which ran particularly low during the last two years, are estimated to have produced 8 miner's inches during 1913, and should produce 30 miner's inches during an average season. The flowing well, No. 6, and the pump well, No. 7, have the same diameter, and should be capable of producing the same amount which, according to the claims of the company for well No. 7, should be at least 60 miner's inches. The output capacity claimed by the company for the pump wells and shaft is 220 miner's inches, adding 60 miner's inches for well No. 6 and 30 miner's inches for stream diversions, shows the total available from all sources as 310 miner's inches.

Of the total supply of the Beaumont Land and Water Company, 70 miner's inches have been assigned or are held for disposal by the San Gorgonio Water Company, which supplies water within the corporate limits of the town of Beaumont for domestic and irrigation purposes. There remains available for distribution by the Beaumont Land and Water Company 240 miner's inches. The transmission and distribution of water by this company is entirely by means of closed conduits, and it does not appear reasonable that the excessive loss to which the engineer of the company testified should be allowed to continue; and 20 miner's inches seems a reasonable provision for the unavoidable waste and loss through the pipe lines of this company. Subtracting this loss from the amount otherwise available leaves for delivery to consumers by this company 220 miner's inches, which is sufficient, under the contract agreements entered into in the past, for 2,200 acres of land.

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The use of water during 1913 has been estimated as follows by the engineers of the Commission, and the amounts given approximately agree with the contentions of the company:

	Per annum
Flat rate users, 3; using 2,200 cubic feet per month	79,200 cubic feet
Flat rate, school	24,000 cubic feet
Metered consumers, 40; using 1,200 cubic feet per month	576,000 cubic feet
Measured irrigation	5,620,000 cubic feet
San Gorgonio Water Company	16,140,000 cubic feet
Total year's delivery of water	22,439,200 cubic feet

From applicant's Exhibit No. 0-1 it appears that the total amount of water produced during the month of maximum use in 1913 was the equivalent of 83 miner's inches continuous flow. It is fair to presume that the maximum reasonable demand upon the system that would have to be met at any one time would be one and one half times this rate of discharge, or about 125 miner's inches. Therefore, the capacity of the system is sufficient to satisfy more than twice the present demand.

According to the testimony, this company is obligated to give irrigation service to 1,525 acres, of which 1,065 acres were irrigated to some extent during 1913. On these lands the actual use in hour inches was about 78,000, and provided a sufficient amount of water to cover the land one and one half inches in depth. This is admittedly not sufficient for the ultimate demand on orchard crops, which is stated to be the logical use of the land. Considerable testimony was produced to establish the quantity of water that should be held in reserve for any such lands as this company might undertake to provide with irrigation service. One expert testified that this should be a sufficient amount to cover the land one and one half feet deep during the season. Other testimony was to the effect that a quantity not greatly in excess of that used at present would ever be necessary, and the company would, in that case, be entitled to extend service to a large area beyond its present confines. It will be assumed that a fair duty of water and measure of what this company should properly be able to supply to all lands to which it undertakes service is a sufficient quantity to supply between 4 and 6 inches in depth for the season. In the near future it is probable that some lands will not be in operation or will use less than 6 inches in depth, while others will probably use a somewhat greater amount; and in providing rates sufficient to cover the necessary expense reasonably chargeable against the consumers of this company, it will be assumed that the average use will be 4 inches in depth, but that one third of the land will require 2 inches more water and one third of the land 2 inches less.

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Two hundred miner's inch hours is the equivalent of an amount of water sufficient to cover one acre 4 inches in depth.

The estimated use of water to be delivered by this company is as follows:

Domestic, 46 consumers, use each 11,200 cubic feet	486,000 cu. ft. per year	6,750 m. i. h.
School, as in 1913	24,000 cu. ft. per year	333 m. i. h.
Irrigation, 1,525 acres, average 200 in. hrs. per acre	21,840,000 cu. ft. per year	305,000 m. i. h.
San Gorgonio Water Company	17,000,000 cu. ft. per year	236,000 m. i. h.
	39,340,000 cu. ft. per year	548,083 m. i. h.

The metered irrigation rates necessary to bear their part in the proper returns to the company will be established as the following:

$6.00 per acre per annum, payable at the rate of $1.50 per quarter on the first day of the quarter, for which the consumer will be entitled to receive water to the extent of 200 miner's inch hours.

Water used in excess of the 200 miner's inch hours, so obtained to be used, charged at the rate of 1½ cents per miner's inch hour.

Rule 4 of the irrigation rules, presented for approval by this company, will therefore be changed in accordance with the rates set forth above.

The domestic rates will be discussed under Rule 28 for domestic service.

The income that may be expected by the application of these rates to the estimated service to be rendered by the Beaumont Land and Water Company will then be as follows:

	Per annum
Forty-five domestic consumers at $24.60	$1,107 00
School, nine months, using 2,667 cubic feet per month at $4.02	36 00
Irrigation, 1,525 acres at $6.00	9,150 00
Excess use, 50,000 inch hours at 1½ cents	750 00
	$11,043 00

It was provided in the transfer of property between the Beaumont Land and Water Company and the San Gorgonio Water Company that no further payment should be made for the use of facilities of the former by the latter corporation.

It is in evidence that $152,475.00 has been paid by the San Gorgonio Water Company. This payment at 6 per cent is the equivalent of $9,148.00 per annum, which may be considered, in part at least, an annual payment to the Beaumont Land and Water Company.

Annual maintenance and operating charges are claimed by the company of $11,096.76 and depreciation at $4,700.00, making a total of $15,796.76. The engineers of the Commission estimate the maintenance

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and operating charges at $7,823.00 and depreciation at $4,100.00, making a total of $11,923.00.

There will, therefore, be a deficit, excepting that the above mentioned sum of $9,148.00 annually may be applied and will. But it must be borne in mind that the company had capacity to serve an increased area beyond that already served and this additional area will, when served, augment its income. It has been estimated that at least 600 acres additional may be thus served.

Rule 13 must be changed in accordance with the rate to be established, wherein a part of the water will now be at the rate of 3 cents per miner's inch hour, or more if less than the minimum quantity is used, and a part at 1½ cents per miner's inch hour.

Rule 22 provides a penalty particularly drastic in allowing the company to refuse any future service to the lands directly involved, and this is considered sufficiently provided for in Rule 24.

DOMESTIC SERVICE.

Rule 7 is changed by request of the company to the form hereinafter set out in the order.

Rule 8 is eliminated as being obvious and unnecessary, particularly in view of the fact that the entire system is to be metered.

Rule 10, set forth in the application, was withdrawn by the company.

Rule 11, which provides methods to be used in installing service pipes, is eliminated as this is the duty of the utility company.

In Rule 15 the wording of the first clause is to be changed by request of the company to read "Domestic service connections shall consist of pressure lines of ¾-inch service pipe and ⅝-inch meter."

In various actions before the Commission it has been provided that the company install meters and connections to established dwelling or business places at its own expense, and the portion of Rule 15 referring to this matter will be eliminated and, for the same reason, Rule 16 will be eliminated.

Both the company and the consumers have asked that Rule 18 be eliminated.

Rule 21 is cancelled by request of the company.

Rule 23, by request of the company, has been changed to read as follows:

> "A flat rate charge will apply on all flat rate service connections in use between the first and the fifteenth of the month, inclusive, or any part thereof, though discontinued after said fifteenth no rebate for a part of the month being allowed; if water is turned on in such connections after the fifteenth day of the month and before the first day of the succeeding month no charge will be made for service for such period. Where a meter is installed on service connections the regular meter charge will be made, including the minimum charge, the minimum rates apply

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for service between the first day and the fifteenth. If the service is turned on after the fifteenth of the month in said connection before the first day of the succeeding month the reading of such period will be added to the reading of the succeeding month: *provided, however*, that if service is discontinued before the first day of the succeeding month the regular meter rate shall apply."

Rule 27 providing that employees of the company shall make no payment for water is contrary to the best practices, and this rule will be eliminated.

Rule 28 will be modified in the matter of meter rates which will become the following:

Minimum monthly payment for 400 cubic feet or less, $1.25.
The next 500 cubic feet, 20 cents per 100 cubic feet.
All above 900 cubic feet, 10 cents per 100 cubic feet.
Fire hydrant rental will remain as requested by the company.

It is suggested that the water used through hydrants for municipal purposes should be metered and the rate for such use will be fixed at 10 cents per 100 cubic feet, the charge for turning on and off being considered a minimum.

The basis of these rates is in part only the record of use presented by this company and the San Gorgonio Water Company, there having been in the past but a small proportion of the service of this company metered. The two companies combined in 1913 reported 85 consumers metered and 281 unmetered, apart from the larger commercial, wholesale and irrigation water used. It has, however, been stated by the company to be its intention to immediately proceed with the work of metering all consumers, and this and the installation of meters is in progress.

In computing rates it has been estimated that as an average during six months of the year each consumer will use 500 cubic feet, this allowing for some irrigation of lawns and shrubbery, and during the remainder of the year the use is estimated to be 1,300 cubic feet monthly.

Rules—San Gorgonio Water Company.

DOMESTIC SERVICE.

The first clause of Rule 9 is changed by stipulation to read as follows:

"Domestic service connections shall consist of $\frac{3}{4}$-inch diameter service pipe and $\frac{5}{8}$-inch meter."

The latter part of this rule, providing for a deposit from the consumer, will be eliminated in conformity with the same point raised in a discussion of Rule 15 of the Beaumont Land and Water Company.

For the same reason as in the foregoing, Rule 11 will be eliminated.

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Rule 12 is changed by stipulation of the applicant to read as follows:

"No person shall tap any main and no alteration whatever shall be made by any person in or about any faucet, water pipe or cock belonging to the company or forming a part of the company's system, without written permission."

Rule 17 the company requests be changed to read:

"Where more than one family or consumer uses water from the same pipe or hydrant, the owner of the premises or the person claiming to be the owner shall be responsible for the payment of the entire rent, the amount to be included in one bill; but the company may collect the bill from the tenants or occupants."

Rule 20 is eliminated, as this is provided for otherwise in the general rules.

Rules 23 and 26 are cancelled through stipulation by the company.

Rule 28 is not approved, for the reason that the principle involved is not justifiable.

The flat rates provided in Rule 30 shall remain unchanged pending the installation of a fully metered system. The meter rates, however, will be changed to be in conformity with similar rates established in the rules of the Beaumont Land and Water Company, as will provisions 47 and 48 of the flat rate rules.

The computation of these rates has been discussed under No. 28 of the rules for domestic service, as presented by the Beaumont Land and Water Company. The resulting returns to the company for both irrigation and domestic use will be set forth in the discussion following, under Rule 4 of irrigation service.

IRRIGATION SERVICE.

Rules 4 and 11 will be modified to conform with the similar rules prescribed for the Beaumont Land and Water Company, setting forth the form of rate to be charged for metered irrigation service. The effect of this irrigation rate combined with the domestic rate now established is subject to only approximate determination.

The San Gorgonio Water Company used during 1913, according to the Commission's engineers, the following amounts of water:

Flat rate users	278 at	2,200	cubic feet per mo.	7,340,000 cu. ft. annual
Metered users	45 at	734	cubic feet per mo.	330,000 cu. ft. annual
Metered commercial	6 at	121	cubic feet per mo.	87,000 cu. ft. annual
Metered Southern Pacific				7,450,000 cu. ft. annual
Measured irrigation				930,000 cu. ft. annual
Cubic feet				16,137,000 annual

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And for the San Gorgonio Water Company the reasonable use to be anticipated is as follows:

Domestic metered, 330 consumers at 900 cubic feet per month	3,560,000 cu. ft.
Commercial, 8 users, at 16,000 cubic feet each	128,000 cu. ft.
Southern Pacific	7,200,000 cu. ft.
Irrigation	4,720,000 cu. ft.
Total	15,608,000 cu. ft.

In estimating the probable consumer's use under domestic meter rate for the average consumer, it has been considered that such a consumer would use about the amount of water that would be necessary for the ordinary family of five persons, and sufficient additional water to irrigate one quarter acre of land a half foot in depth. This would be approximately a six months' use of 500 cubic feet, including a little irrigation; and a six months' use of 1,300 cubic feet. Other use excepting irrigation is assumed to be at about a uniform monthly rate.

The income from the San Gorgonio Water Company should be as follows:

	Per annum
Domestic and commercial consumers, 330 at $24.60	$8,118 00
Larger consumers, 8 at $3.35 per month each	322 00
Southern Pacific	4,502 00
Irrigation, 330 acres at $6.00	1,980 00
Excess irrigation use, 11,000 miner's inch hours at 1½ cents	165 00
Municipal purposes, estimated	200 00
	$15,287 00

The company claims operating expense and maintenance of $7,140.00 and a depreciation of $1,859.13, or a total of $8,999.13, which would leave $6,287.87 as returns on the value of the properties.

The Commission's engineers estimate maintenance and operation charges at $4,507.00 and depreciation $1,786.00, a total of $6,293.00, which leaves $8,994.00 to apply as interest on capital account.

As hereinbefore set forth, this company has an initial investment of $152,475.00, apart from additions to physical property, which at 6 per cent would require $9,148.00 per annum and indicates a deficit of $154.00. This would be increased by some such a sum as $2,000.00 if interest on the further physical value be considered.

The rules proposed by the company and not commented upon herein are approved, except for minor changes embodied in the rules herein found to be reasonable.

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I submit herewith the following form of order:

SUPPLEMENTAL ORDER.

A rehearing having been had herein, additional evidence introduced and the matter having been submitted and the Commission being fully apprised in the premises,

It is hereby found as a fact by the Railroad Commission of the State of California that the rates, rules and regulations and practices of San Gorgonio Water Company and Beaumont Land and Water Company are unreasonable and unjust, and the rates, rules, and regulations set out in Exhibit "A" attached hereto are hereby found to be just and reasonable rates, rules and regulations for the distribution of water by San Gorgonio Water Company to its consumers, and the rates, rules and regulations set out in Exhibit "B" attached hereto are hereby found to be just and reasonable rates, rules and regulations for the distribution of water by Beaumont Land and Water Company to its consumers, and, basing its order on the foregoing finding of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered, by the Railroad Commission of the State of California, that San Gorgonio Water Company put into effect the rates, rules and regulations hereinabove found to be reasonable, and fully set out in Exhibit "A," attached hereto, within a period of thirty days from the date of this order; and

It is hereby further ordered, by the Railroad Commission of the State of California, that Beaumont Land and Water Company put into effect the rates, rules and regulations hereinabove found to be reasonable, and fully set out in Exhibit "B," attached hereto, within a period of thirty days from the date of this order.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of July, 1914.

EXHIBIT "A."

San Gorgonio Water Company.

GENERAL RULES.

Applicable to all consumers.

RULE 1. Water will be furnished to the Southern Pacific Company and its assigns; to the city of Beaumont, and for domestic uses and purposes to consumers residing therein; and for irrigating land within said city where the lines of this company have sufficient capacity and abut. The furnishing and delivery of water will be subject to the terms and conditions recited in each of those two certain deeds made by the Beaumont Land and Water Company, as grantor, to the San Gorgonio Water Company, as grantee, bearing date the 26th day of October, 1907, and 21st day of April, 1913, respectively, and of a certain agreement made by and between the said Beaumont Land and Water Company, and the said San Gorgonio Water Company, and bearing date the 4th day of May, 1911, and the

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terms and conditions of a certain contract between said Southern Pacific Company and the San Gorgonio Water Company, dated May 8, 1908, and which expires in ten years from said date.

RULE 2. No person shall obstruct the free and direct access by any officer, agent, or employee of the company to any part of its water system or other property, or interfere with or obstruct any such officer, agent, or employee in the discharge of his duties.

RULE 3. No person, other than a duly authorized officer, agent or employee of the company shall remove, tamper or interfere with, alter or in any wise damage or permit to be removed, tampered or interfered with, altered or damaged, any device, structure or apparatus constituting a part of this company's system, and the owners of any lot or tract of land shall pay to the company the amount of any damage or injury so caused to such part of said system connecting his lot or tract, including meters used in delivering water to or for such lot or tract.

RULE 4. No person, other than a duly authorized officer, agent or employee of the company, shall open, close or change any gate, valve or other apparatus or device constituting a part of said water system, that shall be used for the controlling or regulation of the running of water therethrough.

RULE 5. Any consumer who shall be in default in the payment of any money due or payable to the company, or who shall be guilty of any breach or violation of any of the rules or regulations of the company shall be held by the company, to the extent that the law provides, to have forfeited all right to the use of water or to any service by the company during continuance of such default or of such breach or violation. For violations of any rule or regulation not herein otherwise specifically provided for, the water may be cut off.

RULE 6. All complaints should be made by consumers at the office of the company at Beaumont, or by letter duly mailed.

RULE 7. All rights to water for irrigation shall be subject to the prior rights of the consumer of water through the system of the company for domestic uses and purposes, and to the use of water from said system by the Southern Pacific Company and its assigns, and by the city of Beaumont, and no water will be furnished at such time or in such quantities as will prevent or interfere with the full and efficient supply of water for such uses or purposes or to such consumers.

RULE 8. All notices given by the company may be given in the following manner:

(*a*) Where the notice is general, by publication once in one weekly newspaper published in the city of Beaumont.

(*b*) Where the notice is personal to an individual, by mail deposited postpaid in the post office at Beaumont, or by personally delivering such notice to such person.

DOMESTIC SERVICE.

RULE 1. All water rates, except meter rates, are due and payable monthly in advance on the first of each month. In all cases of the non-payment of the water rate, notice may be given that the supply will be shut off, and five days after such notice has been given, if the bill for water has not been paid, the supply will be cut off and the water will not again be let on, except on the payment of the amount due, together with the sum of one dollar, as a charge for turning on water; *provided, however*, that in case of leased premises where the tenant is to pay the water rent, unless he pays the same in advance, on or before the tenth day of each month, the water will be shut off without notice and will not again be turned on, except upon payment of the amount due, together with the sum of one dollar as a charge for again turning the water on.

RULE 2. Water will not be supplied for any purpose other than that fixed by the rules, nor shall any consumer supply water to other persons or families, without written permission.

RULE 3. In all cases where water is supplied to two or more consumers from one connection or tap, the company contracts only with the owner of the lot or his representative.

RULE 4. All persons taking water shall keep their service pipes connecting with the company services in good repair at their own expense, and will be liable for all damages which may result from their failure to do so.

RULE 5. The superintendent or other authorized agent of the company shall be admitted at all reasonable hours to all parts of any premises supplied with water, to see that the regulations are observed and to examine the lines.

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RULE 6. No one except a properly authorized agent of the company shall turn water on any property without a written permit, signed by the superintendent or other authorized officer of the company. Any plumber or other person connecting with service pipes may turn the water on at the cut-off cock to test the pipe, but in all cases must leave the water turned off. The water will then be turned on by an authorized agent of this company if application for same is made by the consumer at the office of this company.

RULE 7. No person or persons shall place upon or about any hydrant, water gate or stop-cock, connected with the water pipes of the company, any building material or other substance so as to prevent free access to the same at all times.

RULE 8. Domestic service connections shall consist of ¾-inch service pipe and ⅝-inch meter. No more than one connection shall be made for each lot and this connection shall extend from the main line of the company in the street to the curb line of the street, and where there is no curb line to the lot line. Connection will not be made for vacant or unimproved lots and will be furnished only to bona fide consumers.

RULE 9. No water shall be allowed to run to waste.

RULE 10. No person shall tap any main and no alteration whatever shall be made by any person in or about any faucet, water pipe or cock belonging to the company or forming a part of the company's system without written permission.

RULE 11. All consumers having arrangements for hot water should have a tank from which to feed his boiler. The company will not be responsible for the safety of boilers on the premises of the consumer.

RULE 12. All persons must keep their own service pipes and cocks in good order and free from leakage.

RULE 13. Faucets at wash basins, water closets and urinals must not be left running.

RULE 14. The superintendent and other authorized employees of this company shall be admitted at all reasonable hours for inspection of all parts of the premises supplied with water, to see that the regulations are being observed. All water users are expected to give accurate information regarding the purposes for which water is used.

RULE 15. When more than one family or consumer uses water from the same pipe or hydrant the owner of the premises, or the person claiming to be the owner, shall be responsible for the payment of the entire rental; the amount to be included in one bill, and the company may collect the rent from the tenant or occupant.

RULE 16. Any user of water who allows others to use water from his pipes will be responsible to this company for water so used and the amount thereof will become a part of his water bill.

RULE 17. A flat rate charge will apply on all flat rate service connections in use between the first and the fifteenth of the month, inclusive, or any part thereof, though discontinued after said fifteenth, no rebate for a part of a month being allowed; if water is turned on in such connections after the fifteenth day of the month and before the first day of the succeeding month no charge will be made for service for such period. Where a meter is installed on service connections the regular meter charge will be made, including the minimum charge, where the minimum rates apply for service between the first and fifteenth. If the service is turned on after the fifteenth of the month in said connection, before the first day of the succeeding month, the reading of such period will be added to the reading of the succeeding month; *provided, however*, that if a service is discontinued before the first day of the succeeding month the regular meter rate shall apply.

RULE 18. All water users must have a stop-cock on their own premises to shut off the water for repairs, etc. A charge of $1.00 will be made each time the company's stop-cock is used for this purpose, and no one will be allowed to use the company's stop-cock except the authorized agent of the company, who will make no charge for turning off water for the purpose of putting in above named private stop-cock.

RULE 19. Meters will be provided with lock, but will be kept unlocked when in use; provided, however, that the company reserves the right to lock the box and keep the same locked thereafter should the meter, its connections or the box in which it is contained, be tampered with, injured, defaced, obstructed or the service cock turned or partly turned. Meters will be read monthly, as far as possible on the last day of the month or the first day of the month following, and bills will be sent between the first day and fifth day of the month for the preceding month, by mail post paid, or by delivery to the residence or place of business. Meter bills will become delinquent on the fifth day of the month for the preceding month, and if

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not then paid the company will give written notice, and if the bill remains unpaid on the fifth day following such notice may turn off the water and may not be required to recommence service until all arrearages are paid. Meter bills shall contain this statement in bold-faced type.

RULE 20. No water, except when taken through meters, shall be used for watering gardens, trees, lawns, flower beds or plants, except between the hours of 6 a.m. and 8 a.m. and 6 p.m. and 8 p.m., and no standing sprinklers shall be used without written consent of the company.

RULE 21. Where a meter is installed on service connection already in, the flat rate for the month in which the meter is installed will apply, and the meter rate thereafter.

RULE 22. Water will be furnished to the municipal authorities for flushing streets, and for other municipal purposes, at the rates specified, except as hereinafter set forth. In all cases where the city intends to use water for such purposes, excepting in case of use of water for the extinguishment of fires and for street sprinkling purposes, the city authorities shall give at least twenty-four hours' notice in writing of the place or places and time when the water will be so used.

RULE 23. Where under previous rules consumers have paid for water for the season ending May 1, 1914, on vacant lots, the rates hereby provided shall, as to such consumers, apply from and after May 1, 1914.

RULE 24. For any violation of the foregoing rules the water will be shut off and shall not be turned on without satisfactory assurances upon the part of the delinquent that he will comply with the regulations, and the payment of the sum of $1.00 for opening the street-cock.

The following are hereby declared to be water rates for domestic service. All rates are monthly rates:

1.	For every dwelling house of five rooms, or less, occupied by one family	$1 25
2.	Each additional room	10
3.	Each head of stock kept by private family	25
4.	Each bath tub in private house	25
5.	Each water closet in private house	25
6.	Small stores and business offices	1 50
7.	Large stores and business offices employing four or more persons	2 50
8.	Offices on upper floors	50
9.	Stores using soda fountains, extra	50
10.	Bakeries	2 00
11.	Laundries	3 00
12.	Butcher shops	2 00
13.	Barber shops, not more than two chairs	1 50
14.	For each additional chair	50
15.	Dentists' offices	1 50
16.	Public horse watering troughs	2 00
17.	Public bath tubs	1 00
18.	Public water closets, each urinal, stool and lavatory	1 00
19.	Wagon and blacksmith shops, not more than two forges	2 00
20.	For every additional forge	50
21.	Lodge and meeting rooms	1 50
22.	Livery, feed and sales stables, for each horse kept	50
23.	Photograph studios	2 00
24.	Restaurants and coffee houses	2 50
25.	Packing houses not employing more than ten persons	2 50
26.	For each additional person	05
27.	Water carts for street sprinkling	20 00
28.	Hotels, lodging or boarding houses, containing not over five rooms	2 50
29.	Over five and not more than ten rooms	3 00
30.	Each additional room over ten	20
31.	Fountains not to be used over twelve hours per day 1/16-inch jet	$2 00
32.	¼-inch jet	6 00
33.	Fire hydrants:	
	2-inch	2 00
	2½-inch	2 50
	3-inch	3 00
	3½-inch	3 50
	4-inch	4 00
34.	Building purposes, where private residences are being constructed	2 00
35.	Building purposes, where business houses are being constructed	3 00
36.	Each lumber yard or machine shop	1 50
37.	Steam engines under 5 horsepower, per horsepower	50
38.	Steam engines over 5 horsepower, per horsepower	40
39.	Meters for running coffee mills, sewing machines and washing machines	2 00
40.	Gasoline engines, per horsepower	35

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41.	Public garage not exceeding 5,000 square feet of floor area	3 00
42.	For each extra 1,000 square feet, or fraction thereof	50
43.	Vacant lots, not exceeding 3,125 square feet in area	75
44.	All over 3,125 square feet, for each 1,000 square feet or fraction thereof	20
45.	Yards not exceeding 150 feet in depth, occupied by a dwelling house, per front foot	005
46.	Yards exceeding 150 feet in depth, per 1,000 square feet or fraction thereof, of additional area	25
47.	For use of hydrants for flushing street, sewers or other municipal purposes, each time hydrant is turned on	1 00
48.	Meter rates:	
	First 400 cubic feet	1 25
	Next 500 cubic feet per 100 cubic feet	20
	Balance per 100 cubic feet	10
	Minimum water rate	1 25
52.	For turning on water	1 00
53.	Water when drawn from the company's hydrant in front of company's office into tanks or barrels will be charged at the rate of 20 cents per 100 cubic feet.	

IRRIGATION SERVICE.

RULE 1. Subject to the limitation by the available supply of the company and as provided in its rules, the company will make one irrigation connection to any tract of land having an area of not less than five acres and lying contiguous to any main of sufficient capacity to carry water thereto in heads as hereinafter provided in Rule 6, upon receiving a deposit of $25.00, to be used and applied as hereinafter provided, together with a written application for such connection, duly executed by the owner or owners of such tract, substantially in the following form, to wit:

"*To the San Gorgonio Water Company:*

I hereby apply for an irrigation connection from your main in_____(here insert name of street) Street to that tract of land owned by me situated in the City of Beaumont and described as follows: (here insert description)_____ The number of acres in said tract is_____(here insert number of acres in accordance with the area thereof) as shown upon the recorded map of the Townsite of Beaumont.

I further apply for and agree to take water through such connection for irrigating said land and no other, and for no other use or purpose, at the rate of one tenth of a miner's inch, measured under a 4-inch pressure, continuous flow, for each acre and fractional acre in said tract, and all of such water to be cumulated and delivered in such heads and at such intervals as are now or may hereafter be provided by your rules and regulations.

I promise to pay for such water, such rates as are now or may hereafter be established, in the manner and at the time provided by such rules and regulations.

I herewith deposit with you the sum of $25.00 as security for the performance of the obligations herein imposed upon me. Said sum shall be used and applied, as far as it shall be sufficient so to do, in payment of any sum that may become due and payable from me to you.

I further agree to be bound by and to keep and observe all of the rules and regulations that are now or that may hereafter be lawfully adopted by you.

Date_____(here insert date).

_____

Signature of owner of land."

RULE 2. Wherever the words "miner's inch" are used in these rules, such words mean an amount of water equal to one fiftieth of a cubic foot per second, the equivalent of a miner's inch continuous flow measured under 4-inch pressure.

RULE 3. Wherever the word "consumer" or "consumers" is used in these rates, rules and regulations, it shall mean all persons and land upon and for which water certificates have been issued by this company, and, also, all other persons who have or shall hereafter apply for irrigation water, and the land served or supplied with irrigation water or which has acquired the right thereto.

RULE 4. A minimum charge of $6.00 per acre per annum, payable quarterly in advance, $1.50 on the first day of each quarter, will be required for the area which the consumer desires to irrigate. The area will be considered to be that shown on the recorded maps of the various subdivisions in which the company's mains are located.

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RULE 5. Water will be furnished upon application through such connection, to the extent of the supply of the company in the proportion of one tenth of a miner's inch, continuous flow, to each acre of the tract to be irrigated therethrough, cumulated and delivered as provided in Rule 6.

RULE 6. Water will be delivered in the heads, and for the time in the manner following, to wit:

Number of acres	Head in inches	Continuous run in hours	Furnished
1	6	12	Once each month.
2	6	24	Once each month.
3	9	24	Once each month.
4	12	24	Once each month.
5	15	24	Once each month.
6	12	36	Once each month.
7	14	36	Once each month.
8	12	48	Once each month.
9	13½	48	Once each month.
10	15	48	Once each month.

Upon written application of the consumer for a semi-monthly run, same shall be granted in heads of one half the above schedule, provided the consumer pays in advance the reasonable cost of the extra zanjero's services, which shall in any event not be less than one dollar per month. If for any reason the head in inches shall not be furnished within the time provided for the run as aforesaid, the run shall be continued for such period of time as will furnish the full equivalent, and the water can not be cumulated from month to month.

RULE 7. Each application for water shall be made and signed by the consumer and deliver to the office of the company not less than forty-eight hours before the time of commencing the run and on a blank furnished by it, and will be given priority over other applications thereafter received; provided that the company shall not be required to furnish water upon any applications unless payment for the water demanded is tendered therewith, or such payment is secured by a sufficient deposit theretofore made with the company.

RULE 8. Such applications shall describe the tract to be irrigated and the water furnished upon such application shall not be used on any other land, or for any purpose other than for irrigating such land, nor shall it be allowed to run to waste.

RULE 9. If for any reason water can not be delivered on the date required, the applicant will be notified and water will be delivered according to priority of orders filed, as soon as possible thereafter.

RULE 10. Nothing in any rule or regulation herein contained shall grant, or be construed to grant, to any consumer the right to the use of water on any land in excess of one tenth of a miner's inch, continuous flow, for each acre of land to be irrigated therewith.

RULE 11. The rate and charge for all water furnished in excess of 200 hour inches per acre within the calendar year shall be 1½ cents per miner's inch thereof for each hour's run, which rate and charge shall be due and payable in advance, when application shall be made for such water except as may be provided hereinafter.

RULE 12. For failure to pay the minimum charge the company may refuse to furnish water to the land of the consumer and may furnish said water to other applicants and thereupon the original consumer shall forfeit his right to have irrigation water. Before forfeiting said right the company shall first give to the owner, or consumer, or person in possession and control of the land thirty days' notice in writing that no water will be furnished to the delinquent property until all arrearages are paid. If the owner, consumer, or person in possession and control of said land fails to make payment of said arrearages within said period of thirty days, then the company shall give to said owner or consumer, or person in possession and control of said land a further sixty-day notice in writing that unless said arrearages are paid within said period of sixty days, all rights to have said land served with water for irrigation purposes shall cease and determine and be forfeited; and in case said owner, consumer, or person in possession and control of said land fails to pay said arrearages within sixty days, then all rights to irrigation water for said land shall without further notice cease, be determined and forfeited.

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RULE 13. No person or persons shall place on or about any hydrant, water gate or irrigation stand connected with the water mains of this company any building material, fences or other substance so as to prevent free and direct access to the same from the public highway at the nearest point.

RULE 14. Water will be measured through a two-inch irrigation meter, which will be connected to the irrigation connection and removed by the zanjero.

RULE 15. Bills for irrigation water will be made out and mailed at the post office at Beaumont or delivered by the agent of the company to irrigators, and are payable immediately thereafter. If such bills for water are not paid within ten days after date of mailing or delivery, the company reserves the right to refuse to furnish any further irrigation water and to withhold water until such arrearages are paid. The company further reserves the right to demand payment in advance for all irrigation use. Notice to this effect to be printed on bills.

RULE 16. Under no circumstances shall any person taking irrigation water deliver the same, or any part thereof, to any other land than that for which same is turned on, or supplied under such written application. Any person violating this provision will be subject to the penalty of having the said water immediately cut off.

RULE 17. In case the company has surplus water the company will furnish the same from time to time as it may have the same upon application being made therefor.

EXHIBIT "B."

Beaumont Land and Water Company.

GENERAL RULES.

Applicable to all consumers.

RULE 1. Water will be furnished for domestic uses and purposes to consumers residing in the various subdivisions of land formerly owned or platted by this company, and for irrigating land therein, where the lines of this company have sufficient capacity and touch or abut, and to other land so touching or abutting to the extent of the capacity of the company's system.

RULE 2. No person shall obstruct the free and direct access by any officer, agent or employee of the company to any part of its water system or other property, or interfere with or obstruct any such officer, agent or employee in the discharge of his duties.

RULE 3. No person, other than a duly authorized officer, agent or employee of the company shall remove, tamper or interefere with, alter or in anywise damage or permit to be removed, tampered or interfered with, altered or damaged, any device, structure or apparatus constituting a part of the company's system, and the owners of any lot or tract of land shall pay to the company the amount of any damage or injury so caused to any part of said system, including meters used in delivering water to or for such lot or tract.

RULE 4. No person, other than a duly authorized officer, agent or employee of the company, shall open, close or change any gate, valve or other apparatus or device constituting a part of said water system, that shall be used for the controlling or regulation of the running water therethrough.

RULE 5. Any consumer who shall be in default in the payment of any money due or payable to the company, or who shall be guilty of any breach or violation of any of the rules and regulations of the company, shall, during the continuance of such default or of such breach or violation, forfeit all right to the use of water or to any service by the company. For violation of any rule or regulation not herein otherwise specifically provided for the water may be cut off.

RULE 6. All complaints should be made by consumers to the office of the company at Beaumont, or by letter duly mailed.

RULE 7. All rights to water for irrigation shall be subject to the prior rights of the consumers of water through the system of the company for domestic uses and purposes, and no water will be furnished at such time or in such quantities as will prevent or interfere with the full and efficient supply of water for such uses or purposes or to such consumers.

RULE 8. All notices given by the company may be given in the following manner:

(*a*) Where the notice is general, by publication once in one weekly newspaper published in the city of Beaumont.

(*b*) Where the notice is personal to an individual, by mail deposited post paid in the post office at Beaumont, or by personally delivering such notice to such person.

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IRRIGATION SERVICE.

RULE 1. Subject to the limitation by the available supply of the company and as provided in its rules, the company will make one irrigation connection to any tract of land having an area of not less than five acres and lying contiguous to any main of sufficient capacity to carry water thereto in heads as hereinafter provided in Rule 6, upon receiving a deposit of $25.00 to be used and applied as hereinafter provided, together with a written application for such connection duly executed by the owner or owners of such tract, substantially in the following form, to wit:

"*To the Beaucont Land and Water Company:*

"I hereby apply for an irrigation connection from your main in_____ _____(there insert name of street), to that tract of land owned by me and described as follows: (here insert description).

"The number of acres in said tract is_____(here insert number of acres in accordance with the area thereof) as shown upon the recorded map of the said subdivision.

"I further apply for and agree to take water through such connection for irrigating said land and no other, and for no other use or purpose, at the rate of one tenth of a miner's inch, measured under a 4-inch pressure, continuous flow, for each acre and fractional acre in the said tract, and all of such water to be cumulated and delivered in such heads and at such intervals as are now or may hereafter be provided by your rules and regulations.

"I herewith deposit with you the sum of $25.00, as security for the performance of the obligations herein imposed upon me. Said sum shall be used and applied, as far as it shall be sufficient so to do, in the payment of any sum that may become due and payable from me to you.

"I further agree to be bound by and to keep and observe all of the rules and regulations that are now or that may hereafter be lawfully adopted by you.

"Date_____(there insert date).

_____

Signature of owner of land."

RULE 2. Wherever the words "miner's inch" are used in these rules such words mean an amount of water equal to one fiftieth of a cubic foot per second, the equivalent of a miner's inch continuous flow measured under 4-inch pressure.

RULE 3. Wherever the word "consumer" or "consumers" is used, it shall mean all persons and land to and for which water certificates have been issued by this company, and, also, all other persons who have or shall hereafter apply for irrigation water, and the land served or supplied with irrigation water or which has acquired the right thereto.

RULE 4. A minimum charge of $6.60 per acre per annum, payable quarterly in advance, $1.50 on the first day of each quarter, will be required for the area which the consumer desires to irrigate. The area will be considered to be that shown on the recorded maps of the various subdivisions in which the company's mains are located.

RULE 5. Water will be furnished upon application, through such connection, to the extent of the supply of the company in the proportion of one tenth of a miner's inch, continuous flow, to each acre of the tract to be irrigated therethrough, cumulated and delivered as provided in Rule 6.

RULE 6. Water will be delivered in the heads and for the time in the manner following, to wit:

Number of acres	Head in inches	Continuous run in hours	Furnished
5	15	24	Once each month.
6	18	24	Once each month.
7	21	24	Once each month.
8	24	24	Once each month.
9	27	24	Once each month.
10	30	24	Once each month.
11	22	36	Once each month.
12	24	36	Once each month.
13	26	36	Once each month.
14	28	36	Once each month.
15	30	36	Once each month.

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Upon written application of the consumer for a semi-monthly run, same shall be granted in heads of one half the above schedule, provided the consumer pays in advance the reasonable cost of the extra zanjero's services, which shall in any event not be less than $1.00 per month. If for any reason the head in inches shall not be furnished within the time provided for the run as aforesaid, the run shall be continued for such period of time as will furnish the full equivalent, and the water cannot be cumulated from month to month.

RULE 7. Irrigation water shall be measured, as far as possible, over a weir.

RULE 8. Irrigation connection stands, including weirs, weir boxes, gates and other adjuncts, shall be of two types: first, of cement, where water is furnished through a cement main, and second, of iron and cement, where water is furnished through an iron or steel main. No stand will be furnished for any tract containing an area of less than five acres, and not more than one stand will be furnished for each five acres in excess of five acres.

RULE 9. Each application for water shall be made and signed by the consumer and delivered to the office of the company, not less than forty-eight hours before the time of commencing the run and on a blank furnished by it, and will be given priority over other applications thereafter received; provided that the company shall not be required to furnish water upon any applications unless payment for the water demanded is tendered therewith, or such payment is secured by a sufficient deposit theretofore made with the company.

RULE 10. Such applications shall describe the tract to be irrigated, and the water furnished upon such application shall not be used on any other land, or for any other purpose than for irrigating such land, nor shall it be allowed to run to waste.

RULE 11. If for any reason water can not be delivered on the date required, the applicant will be notified and water will be delivered according to priority of orders filed, as soon as possible thereafter.

RULE 12. Nothing in any rule or regulation herein contained shall grant, or be construed to grant, to any consumer the right to the use of water on any land in excess of one tenth of a miner's inch continuous flow for each acre of land to be irrigated therewith.

RULE 13. The rate and charge for all water furnished in excess of 200 hour inches per acre within the calendar year shall be 1½ cents per miner's inch thereof for each hour's run, which rate and charge shall be due and payable in advance, when application shall be made for such water, except as may be provided hereinafter.

RULE 14. For failure to pay the minimum charge the company may refuse to furnish water to the land of the consumer and may furnish said water to other applicants, and thereupon the original consumer shall forfeit his right to have irrigation water. Before forfeiting said right the company shall first give to the owner, or consumer, or person in possession and control of the land thirty days' notice in writing that no water will be furnished to the delinquent property until all arrearages are paid. If the owner, consumer, or person in possession and control of said land fails to make payment of said arrearages within said period of thirty days then the company shall give to said owner or consumer, or person in possession and control of said land a further sixty-day notice in writing that unless said arrearages are paid within said period of sixty days, all rights to have said land served with water for irrigation purposes shall cease and determine and be forfeited; and in case said owner, consumer, or person in possession and control of said land fails to pay said arrearages within said sixty days, then all rights to irrigation water for said land shall without further notice cease, be determined and forfeited.

RULE 15. Irrigation water will be furnished upon the following tracts in alternate weeks, that is to say, to land in La Mesa Miraville, Apple Valley and Mellen Orchard tracts one week, and to land in Cherry Valley, Cherry Valley West, Edgar Vineyard Tract and Sunny Slopes the next week, and all applications for irrigation water shall be made accordingly.

RULE 16. No person or persons shall turn any gate, interfere with the same, or make any change in the same at any time, and when the water is turned on by the zanjero, shall not interfere with the flow of said water, or in anywise obstruct, change or tamper with the same.

RULE 17. The superintendent, officers, zanjero and authorized agents of this company shall be admitted at all reasonable hours to all parts of all premises supplied with water, to see that the regulations are being observed.

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RULE 18. The direct supply of water shall be under the management and control of the zanjero employed by this company and he shall have the right to diminish, if necessary, the quantity furnished through any irrigation stand. Whenever less water, for any reason, is furnished than the amount applied for, due allowance will be made therefor.

RULE 19. No person or persons shall place on or about any hydrant, water gate or irrigation stand connected with the water mains of this company any building material, fences or other substance so as to prevent free and direct access to the same from the public highway at the nearest point.

RULE 20. No person or persons shall interfere with, hinder or obstruct the zanjero in the discharge of his duties. All complaints should be reported by the water users to the office of this company at Beaumont, and not made to the zanjero.

RULE 21. Bills for irrigation water will be made out and mailed at the post office at Beaumont or delivered by the agent of the company to irrigators, and are payable immediately thereafter. If such bills for water are not paid within ten days after date of mailing or delivery, the company reserves the right to refuse to furnish any further irrigation water and to withhold water until such arrearages are paid. The company further reserves the right to demand payment in advance for all irrigation use. Notice to this effect to be printed on the bills.

RULE 22. Under no circumstances shall any person taking irrigation water deliver the same, or any part thereof, to any other land than that for which same is turned on or supplied under such written application. Any person violating this provision will be subject to the penalty of having the same water immediately cut off.

RULE 23. In case the company has surplus water it will furnish the same, from time to time, as it may have it, upon application being made therefor.

RULE 24. For any violation of these rules, where no other penalty is above provided, the water will be shut off and will not be again turned on without satisfactory assurance on the part of the delinquent that he will comply with the regulations of this company, and upon his further paying such additional charge as may be just and right.

DOMESTIC SERVICE.

RULE 1. All water rates, except meter rates, are due and payable monthly in advance on the first of each month. In all cases of the non-payment of the water rate, notice may be given that the supply will be shut off, and five days after such notice has been given, if the bill for water has not been paid, the supply will be cut off and the water will not again be let on except upon the payment of the amount due, together with the sum of $1.00 as a charge for turning on the water; *provided, however*, that in case of leased premises where the tenant is to pay the water rent, unless he pays the same in advance, on or before the tenth day of each month, the water will be shut off without notice and will not again be turned on, except upon payment of the amount due, together with the sum of $1.00, as a charge for again turning on the water.

RULE 2. No one except a properly authorized agent of the company shall turn water on any property without a written permit, signed by the superintendent or other authorized officer of the company.

RULE 3. Water will not be supplied for any purpose other than that fixed by the rules of this company, nor shall any consumer supply any water to other persons or families, without written permission.

RULE 4. Any plumber or other person connecting with service pipes may turn the water on at the cut-off cock to test the pipe, but in all cases must leave the water turned off. The water will then be turned on by an authorized agent of this company if application for same is made by the consumer at the office of this company.

RULE 5. All persons taking water shall keep their service pipes and cocks in good order and free from leakage at their own expense, and will be held liable for all damage which may result from their failure to do so.

RULE 6. No person shall tap any main and no alteration whatever shall be made by any person in or about any faucet, water pipe, or cock belonging to the company or forming a part of the company's system without written permission.

RULE 8. The superintendent and other authorized employees of this company shall be admitted at all reasonable hours for inspection of all parts of the premises supplied with water, to see that the regulations are being observed. All water users are expected to give accurate information regarding the purposes for which water is used.

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RULE 9. No person or persons shall place upon or about any hydrant, water gate, reservoir or stop-cock connected with the water pipes of this company any building material or other substance so as to prevent free access at all times to the same from the public highway at the nearest point.

RULE 10. All consumers of pressure water having arrangements for hot water must have a tank from which to feed the boiler. This company will not be responsible for the safety of boilers on the premises of any consumers.

RULE 11. Any user of water who allows others to use water from his pipes will be responsible to this company for water so used, and the amount thereof will become a part of his water bill and be collected under penalty of having his water cut off.

RULE 12. Domestic service connections shall consist of pressure lines of ¾-inch service pipe and ⅝-inch meter. Not more than one connection shall be made for each lot or tract unless the same is divided into separate ownership and then only one for each ownership shall be installed. Connections will not be made for vacant or unimproved lots and will be furnished only to bona fide consumers. This rule, however, shall not apply to parties taking domestic water in reservoirs.

RULE 13. Water rent will be charged for unused premises in every instance until the company shall have been notified of the discontinuance of the water and to turn the water off, and all changes in the use of water that may affect the rates must be at once reported to the officers of the company, and if not so reported, no rebate will be allowed.

RULE 14. Meters will be provided with lock, but will be kept unlocked when in use; *provided, however*, that the company reserves the right to lock the box and keep the same locked thereafter should the meter, its connections or the box in which it is contained, be tampered with, injured, defaced, obstructed or the service cock turned or partly turned. All persons are hereby forbidden to interfere with or remove a water meter from any service where it has been attached without first receiving permission from the company. Meters will be read monthly and as far as possible on the last day of each month, or the first day of the month following, and bills will be sent between the first and fifth days of the month for the preceding month, by mail post paid, or by delivery at place of business.

Meter bills will become delinquent on the tenth day of the month for the preceding month, and if not then paid the company may give written notice, and if the bill remains unpaid on the fifth day following such notice, may turn off the water and may not be obliged to recommence service until all arrearages are paid. Meter bills shall contain this statement in bold-faced type.

RULE 15. Where a meter is installed on service connection already in, the flat rate for the month in which the meter is installed will apply, and the meter rate thereafter.

RULE 16. Water will be furnished to the public authorities for flushing streets, sewers, and for other municipal purposes, at the rates specified. In all cases where the public authorities intend to use water for such purposes, excepting in the case of use of water for the extinguishment of fires and for street sprinkling purposes, the said authorities shall give at least twenty-four hours' notice in writing of the place or places, and time when the water will be so used.

RULE 17. A flat rate charged will apply on all flat rate service connections in use between the first and the fifteenth of the month, inclusive, or any part thereof, though discontinued after said fifteenth, no rebate for a part of a month being allowed; if water is turned on in such connections after the fifteenth day of the month and before the first day of the succeeding month no charge will be made for service for such period. Where a meter is installed on service connections the regular meter charge will be made, including the minimum charge, where the minimum rates apply for service between the first and fifteenth. If the service is turned on after the fifteenth of the month in said connection, before the first day of the succeeding month, the reading of such period will be added to the reading of the succeeding month; *provided, however*, that if a service is discontinued before the first day of the succeeding month the regular meter rate shall apply.

RULE 18. No water shall be used, except when measured through meters, for watering gardens, trees, lawns, flower beds or plants except between the hours of 6 a. m. and 8 a. m. and 6 p. m. and 8 p. m., and no standing sprinkler shall be used without the written consent of the company.

RULE 19. All water users must have a stop-cock on their own premises to shut off the water for repairs, etc. A charge of $1.00 will be made each time the company's stop-cock is used for this purpose, and no one will be allowed to use the

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company's stop-cock except the authorized agent of the company, who will make no charge for turning off the water for the purpose of putting in above named private stop-cock.

RULE 20. For any violation of the foregoing rules the water shall be turned off and shall not be again turned on without satisfactory assurance on the part of the delinquent that he will comply with the regulations of this company, and upon his further paying the sum of one dollar for opening the service cock and such additional charge as may seem just and right.

RULE 21. The following are hereby declared to be the water rates for domestic service:

All rates are monthly rates.

1.	Meter rates:	
	First 400 cubic feet	$1 25
	Next 500 cubic feet, per 100 cubic feet	20
	Balance per 100 cubic feet	10
	Minimum meter rate	1 25
2.	Water carts for street sprinkling (per 100 cubic feet)	10
3.	Fire hydrants:	
	2-inch	2 00
	2½-inch	2 50
	3-inch	3 00
	3½-inch	3 50
	4-inch	4 00
4.	For use of hydrants for flushing streets, sewers or other municipal purposes, each time hydrant is turned on	1 00
5.	Metered use (per 100 cubic feet)	10
6.	Water when drawn from the company's hydrants into tanks or barrels will be charged for at the rate of 20 cents per 100 cubic feet.	

RESERVOIRS.

RULE 22. Wherever domestic water is supplied in reservoirs and where the same is provided for in the water certificate of the purchaser, the purchaser shall construct a reservoir of the capacity in said certificate stated, namely, of at least 5,000 gallons capacity for each five acres. Reservoirs shall be filled by delivery at the irrigation stands, and shall not be filled oftener than once in ten days, on the tenth, twentieth and last day of each month. The charges for such water will be at the same rate as that provided for in the certificate, with a minimum charge per month of eighty-five cents.

RULE 23. Water delivered to any reservoir shall be for use upon the tract upon which said reservoir is constructed, and no person or persons having such reservoir shall sell or permit others to take water therefrom or for other lands or other separate tracts, pieces or parcels of land.

RULE 24. The use of one reservoir in common for different families occupying different tracts or parcels of land is strictly forbidden.

RULE 25. The owners of all lands having reservoirs shall keep their reservoirs in clean and sanitary condition.

RULE 26. All reservoirs shall be built subject to the approval of this company, and no water will be furnished to the same if not so built. Reservoirs shall not be constructed at such an elevation as will cause any pressure or back pressure on the supply lines or mains.

RULE 27. Bills for water supplied to reservoirs shall be mailed at Beaumont, California, immediately after the same has been supplied and shall be payable within ten days thereafter. If the same are not so paid, this company reserves the right to refuse to furnish any further water and to refuse to supply such reservoirs. The company reserves the right to, at any time, require payment in advance for filling reservoirs before the same are filled.

RULE 28. All reservoirs shall be maintained and kept in repair by the respective owners thereof, and this company reserves the right to refuse to supply such reservoirs, which are not in good repair. Bills for the minimum charge will be mailed each month for the ensuing month, and if not paid within ten days from mailing, the company reserves the right to discontinue filling the reservoir of such delinquent until all arrearages are paid.

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Decision No. 1687, grade crossing; not printed. See end of volume.

DECISION NO. 1688.

ADOLPH BECKER

vs.

W. H. HOLABIRD, RECEIVER OF CALIFORNIA DEVELOPMENT COMPANY.

Case No. 551.

F. W. WEEKS, PRESIDENT BOARD OF TRUSTEES, CITY OF HOLTVILLE.

vs.

CALIFORNIA DEVELOPMENT COMPANY AND W. H. HOLABIRD, RECEIVER CALIFORNIA DEVELOPMENT COMPANY.

Case No. 552.

LOUIS J. IVEY

vs.

W. H. HOLABIRD, RECEIVER OF CALIFORNIA DEVELOPMENT COMPANY.

Case No. 573.

Decided July 28, 1914.

Complainants allege unjust rates and refusal of service on the part of defendant, serving water for domestic and irrigation purposes in Imperial County, which complaints defendant refuses to answer on the grounds that it does not appear from the complaints that it is a public utility; and further, that the company being in the hands of a receiver, no leave to sue has been secured from the court appointing such receiver.

Held, That defendant company was incorporated for the purposes of appropriating water from the Colorado River to be sold in certain territory in Mexico and California, that its stock did not entitle the holder to any amount of water, that it is not a mutual company, but one organized for profit.

Held, That defendant company has agreed by contract and otherwise to deliver water to mutual companies, corporations, municipalities and an individual and has publicly held itself out as serving the territory embraced by the Imperial Valley, and is such territory's only source of supply of water for domestic and irrigation purposes. That defendant company organized a number of mutual companies, taking the proceeds of stock of such companies for its own use, and held out such mutual companies as willing to serve any and all of the territory composing the Imperial Valley. That such mutual companies are clearly agencies created solely for the purpose of selling water to consumers of Imperial Valley.

Held, That defendant company being the only source of supply in the territory it serves and no other company being able to enter into competition with it, it has an absolute monopoly and that this is clearly a case in which public welfare requires that this system be subjected to public regulation. That the Supreme Court of the United States has repeatedly held that corporations engaged in business, not only of a monopolistic character, but business of a public interest or of public welfare, can be subjected to public regulation; that defendant company comes clearly within the definition of a public utility water company as defined by the Public Utilities Act of this state and is, therefore, subject to the jurisdiction of this Commission.

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Held, That the Public Utilities Act specifically includes, as a public utility, a "receiver appointed by any court whatsoever." That the receiver derives his power from the statutes of the state, which are subject to modification by subsequent statutes, as has been done in this case, and that defendant's contention that permission to sue must first be obtained from the court appointing the receiver, therefore, can not be entertained. Defendant directed to answer the complaint.

Conkling & Brown, for complainants, Adolph Becker and Louis J. Ivey.

W. H. Sprague, city attorney, and *Conkling & Brown*, for complainant F. W. Weeks.

W. B. Mathews and *S. B. Robinson*, for W. H. Holabird, receiver.

O'Melveny, Stevens & Millikin and *W. K. Tuller*, for Title Insurance and Trust Company, Trustees.

Valentine & Newby, for Boaz Duncan.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

The issue at present before this Commission in each of the three above entitled cases is to determine whether the water system of California Development Company is a public utility water system and whether W. H. Holabird, as receiver thereof, is a public utility, subject to the jurisdiction of the Railroad Commission. The water system now operated by Holabird supplies the water upon which all of Imperial County is dependent for domestic and irrigation purposes.

By agreement of all parties, these three cases were consolidated for hearing on the question of jurisdiction.

The complaint in Case No. 551 alleges in effect that California Development Company is a New Jersey corporation, empowered under its articles of incorporation to sell, rent, and distribute water for irrigation purposes for compensation and hire; that shortly after its incorporation California Development Company acquired an irrigation system in the present county of Imperial, and began selling and delivering water generally to a tract of land containing some 350,000 acres, then called the New River Country and now known as Imperial Valley; that said corporation continued to operate its said system and to sell, rent and distribute water for hire and compensation generally to the public of Imperial County for the lands hereinbefore referred to, including the lands of complainant, and also to supply water to various municipalities existing within said area, and was so engaged on December 13, 1909; that all the water so sold, rented and distributed was taken by California Development Company from the Colorado River in Imperial County; that as the result of an action to foreclose a mortgage upon the property of California Development Company, brought by Title Insurance and Trust Company, W. H. Holabird, on

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December 13, 1909, was duly appointed receiver of the property of California Development Company; that ever since December 13, 1909, Holabird has operated said property and has controlled, operated and managed said water system for compensation and has sold, rented, and distributed water to the inhabitants of Imperial Valley and to the municipalities therein for use for irrigation purposes; that during all of said times the rate charged and collected by defendant for the use of water for irrigation purposes has been and still is $0.50 per acre foot, and that such rate is reasonable; that complainant owns and possesses a certain 240-acre tract of land in Imperial Valley under the flow of the canals and systems of California Development Company, which lands have heretofore been furnished with water from this system, are ready for irrigation and are worthless without water for irrigation; that it is impossible to procure water for the irrigation of complainant's land from any water system other than that of the defendant; and that complainant has made proper demand and tender for water from defendant's system, but that defendant has refused to deliver water to complainant, though having an abundant supply of surplus water at its disposal. Complainant asks this Commission to require defendant to begin the delivery of water to irrigate complainant's land at the same price and in the same manner that defendant furnishes and delivers water to others owning lands under the same system.

The amended complaint in Case No. 552, after making general allegations of the same general tenor as those contained in the complaint in Case No. 551, alleges that the water system of the California Development Company constitutes the sole and only supply of water for all that part of Imperial County which is known as Imperial Valley, and contains an area of 400,000 acres of land, a population of over 25,000 people and five incorporated cities; that the value of the entire property of California Development Company in charge of the receiver does not exceed $400,000.00; that the reasonable operating expenses and the income are as set forth; that if the defendant will furnish water to additional lands to the extent of his ability the annual revenue of the system will be increased $150,000.00 without appreciable increase in operating expenses; that the rate charged by California Development Company and the receiver has uniformly been $0.50 per acre foot, except that the rate charged the city of Holtville has been $1.00 per acre foot, without any reason for the difference in the rates; that the rate so charged for water is grossly exorbitant and yields a return of over 30 per cent on the value of the property; that the California Development Company and the receiver are refusing to deliver water to persons entitled thereto and are claiming the right to deliver water or to refuse to deliver water to whomsoever they think

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fit, and that they make exactions for the right to be allowed to purchase water from them; that they discriminate unjustly in charges for water; and that the receiver has entered into a contract with Imperial Water Company No. 5, a corporation, for the delivery of water, but refuses to enter into contracts with other corporations and persons similarly situated upon the same terms. The complainant prays that this Commission establish the rates to be charged by defendants for water, that defendants be required to deliver water to all persons and corporations who can be served with water, and that defendants be prohibited from making any discrimination in rates between the city of Holtville and other customers.

The complaint in Case No. 573 contains allegations similar to those contained in the complaint in Case No. 551, except that there is no allegation that complainant's lands have heretofore been irrigated from the water system of the California Development Company.

In each of these three cases, the defendant W. H. Holabird, as receiver of the property of California Development Company, interposed a demurrer on the ground that it does not appear from the complaint that defendant is a public utility subject to the jurisdiction of this Commission and also on the ground that it does not appear that leave of the court having control over the receiver has been secured to sue or proceed against the receiver.

A hearing on the demurrers was held in Los Angeles on May 29, 1914. All parties agreed that the Commission should pass upon the question of jurisdiction, and evidence and argument were received on that issue. Commissioner Eshleman, who was designated jointly with myself to hear these cases, felt disqualified and asked to be relieved from participation in the decision. The time granted for the filing of briefs has now expired and the issue of jurisdiction is now ready for decision.

I shall first make my findings of fact and shall then apply the law. Each statement of a fact herein contained is to be regarded as a finding of fact.

California Development Company was incorporated under the laws of New Jersey with a corporate life to extend from April 25, 1896, to April 25, 1946. The certificate of organization shows that the corporation was formed, among other purposes, "to acquire, hold, construct and maintain headings, dams, ditches, canals, reservoirs and other structures and appliances for collecting, storing and conducting water and irrigating lands"; "to supply and distribute water to, and irrigate and cultivate the lands of the company and of others"; and "to sell or let such water or the right to use the same."

The total amount of capital stock is $1,250,000.00, divided into 12,500 shares of the par value of $100.00 each. The evidence shows that

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ownership of stock in California Development Company has never entitled and does not now entitle the holders of such stock to any water, and that this corporation is one organized for profit and is not a mutual company.

On December 15, 1895, there was posted at Hanlon's Heading, a point located on the west bank of the Colorado River, about a quarter of a mile north of the international boundary line between the United States and Mexico, for and on behalf of California Development Company, a written notice of appropriation, reading as follows:

WATER NOTICE.

Dec. 15, 1895.

To whom it may concern:

Notice is hereby given that we, the California Development Company, a corporation organized under the laws of the State of New Jersey, do for ourselves and others claim (10,000) ten thousand cubic feet per second of the water of the Colorado River flowing by this intended point of diversion. This intended point of diversion being located on the SW. ¼ of Section 25, T. 16 S., R. 21 E. of San Bernardino base and meridian, and being further described as a point or location on the west bank of the Colorado River in San Diego County, State of California, one and one quarter miles more or less up the river from the point where the international line between the United States and Mexico intersects the west bank of the Colorado River.

The said point of diversion is more specifically described as extending from a point due west of the pumping plant of the Paymaster Mining Company up the river a distance of (500) five hundred feet more or less to a hill.

We, the California Development Company, claim the right to the said 10,000 cubic feet per second for the purpose of developing power and for the irrigation of lands in San Diego County, State of California, and in Lower California, Republic of Mexico. We purpose carrying the water from the above described point of diversion through a canal which will run in a southwesterly direction through Lower California, Republic of Mexico, and thence into that portion of San Diego County, State of California, lying east of the San Jacinto Mountains and known as the New River Country. Said canal will be 200 feet in width and will carry a depth of ten feet of water. Its length will be 50 miles more or less.

CALIFORNIA DEVELOPMENT COMPANY.

I hereby certify that I witnessed the posting of the original water notice of which this is a true and correct copy.

WILLIAM T. HEFFERNAN.

The foregoing notice was recorded at the request of W. T. Heffernan on December 19, 1898, in the office of the county recorder of San Diego County.

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The "New River Country" referred to in the notice means the territory now known in general as the Imperial Valley, located in Imperial County, California. At the time California Development Company was incorporated and the foregoing notice was posted, the land in what is now Imperial Valley was desert land belonging to the federal government, and none of it belonged to California Development Company when the notice of appropriation was posted. The evidence shows that while California Development Company later acquired certain scattered lands in California which it thereafter purported to sell to the Southern Pacific Company, none of this land was ever irrigated by the California Development Company prior to the sale, and none of it has ever been irrigated by California Development Company in its capacity as an appropriator of water. When California Development Company caused the foregoing notice to be posted, claiming the right to 10,000 cubic feet per second of water "for the purpose of developing power and for the irrigation of lands in San Diego County, State of California, and in Lower California, Republic of Mexico," it is clear the company intended to appropriate this water primarily for the purpose of irrigating the lands of others, at least in so far as California lands are concerned, and not to irrigate lands of its own as an appropriator.

The actual construction of California Development Company's system for the irrigation of lands in the Imperial Valley was commenced in 1900 and water was first conducted through it to the Imperial Valley in June, 1901. The system consists of the main intake works, known as Hanlon's Heading, located on the west bank of the Colorado River, at a point about a quarter of a mile north of the international boundary line between the United States and Mexico; a main canal known as the Alamo Canal, leading from said heading, crossing the international boundary line, and extending for a distance of approximately fifty miles through Mexican territory to a point known as Sharp's Heading, near the international boundary line, and on the Mexican side, distant eight or nine miles from the town of Calexico, which canal is in part artificial and in part the natural channel of the Alamo River, and which has, at the present time, a capacity of approximately 4,000 second feet of water, and other canals, branching from the Alamo Canal at Sharp's Heading and other points in the vicinity thereof and leading to various portions of Imperial Valley, most of these branch canals entering the United States within a short distance after leaving the Alamo Canal, but some extending westerly for several miles through Mexican territory before entering the United States.

The construction of the main canal for the most part through Mexican territory was made necessary by the fact that a range of

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sand hills extends in a northwesterly and southeasterly direction along the easterly side of Imperial Valley, between it and the Colorado River, extending to a point below the international boundary. By reason of the laws of Mexico preventing the acquisition by foreigners of land within a certain distance of the international boundary line, it became necessary for the promoters of the California Development Company to organize a subsidiary corporation under the laws of Mexico. This corporation was organized under the name of La Sociedad de Irrigacion y Terrenos de la Baja California. All its capital stock was held by California Development Company. The Supreme Court of this State in *Thayer* vs. *California Development Company*, 164 Cal. 137, very properly referred to this Mexican company as "the California Development Company under another name," and held that "whatever was done through it (the Mexican company) will be regarded as in fact done by the California Development Company." On May 17, 1904, the Mexican company secured from the Mexican Government a concession authorizing the company to carry through its canals in Mexico water to an amount of 284 cubic meters per second from the waters taken from the Colorado River and to carry the same to the United States, subject to the exception contained in article II of the concession, a translation whereof reads as follows:

> "*Article Second.* From the water mentioned in the foregoing article enough shall be used to irrigate the lands susceptible of irrigation in Lower California, with the water carried through the canal or canals, without in any case the amount of water used exceeding one half of the volume of water passing through said canal."

Article XVIII, translated, reads as follows:

> "*Article Eighteenth.* The company, grantee, is at liberty to enter into contracts and agreements with individuals and private and public corporations for the use of the water granted to it, *being subject in the prices to be charged to the tariff which with due opportunity shall be presented to the Secretary of Development for his examination and approval*, the company, grantee, having the right, nevertheless, to use said water in the irrigation of the lands belonging to it."

It thus appears that the Mexican Government expressly insisted that enough water be reserved, up to one half the volume, "to irrigate the lands susceptible of irrigation in Lower California," and that the prices to be charged for such water are subject to supervision and regulation by the Mexican Government. If it is now held that this company is not a public utility in California, we shall have the curious spectacle of one and the same company being a public utility in Mexico and yet not a public utility across the line in California.

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On December 28, 1900, California Development Company entered into a contract with the Mexican company in which the California Development Company agreed to deliver to the Mexican company sufficient water to enable the latter "to furnish water for the irrigation of the lands situated in Lower California, Republic of Mexico, and State of California, United States of America, which are irrigable by gravity from the system of canals and irrigating system to be constructed." It was provided that "said waters so to be delivered by said system of canals to form an irrigation system for the purpose of irrigating lands situated in California, United States of America, and in Lower California, Republic of Mexico, which are irrigable from the Colorado River by gravity." It thus appears that the parties contemplated that this system should irrigate up to its capacity all the lands located in California and Lower California "which are irrigable from the Colorado River by gravity." The evidence shows that in Mexico, under rates regulated by the Federal Government, approximately 244,000 acres of land are being actually irrigated or are in process of being placed under irrigation from works now in course of construction.

Turning now to the situation in California, I find that California Development Company constituted Imperial Land Company its exclusive agent for the purpose of selling water stock in the various mutual water companies which the California Development Company later incorporated, as will hereinafter appear, and that this company sold water stock without discrimination as to persons, for location anywhere within the Imperial Valley within territories as to which the California Development Company had incorporated or would incorporate mutual water companies. Advertisements which were inserted by Imperial Land Company in newspapers circulating in the Imperial Valley, copies of which are in evidence in this case, show clearly the purpose of California Development Company to sell water for the entire New River Country. I quote in part from an advertisement in the issue of the Imperial Valley Press of May 11, 1901:

> "The Colorado Delta, located in Riverside and San Diego counties, in southern California, and extending down into Lower California, comprises about 1,000,000 acres of level, irrigable land that has been made during the past ages by alluvial deposits carried down by the waters of the Colorado River."
>
> "*An extensive irrigation system is now being constructed to reclaim this large tract of country. The main canal will be enlarged and the main branch canal extended to meet the demands for water as the irrigated area is enlarged.*"
>
> "The land to be reclaimed is located in San Diego County, east of the New River, and embraces 500,000 acres of level, fertile land, free from alkali, with sufficient slope to be easily irrigated. It is all government land and can be taken up under the desert

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land law and the homestead law. Three hundred and twenty acres can be taken up by each person under the desert land law, and residence on the land is not required. This liberal law is to be repealed or unfavorably modified soon."

"This tract will be irrigated by mutual water companies, designated as Imperial Water Company No. 1, No. 2, No. 3, etc., which companies are formed to distribute water to stockholders at cost."

"The Imperial Valley Land Company sells this water stock to the land owners—one share to each acre. The price is now only $11.25 per share."

"Water will be ready for use for fall and winter crops."

The testimony of F. G. Havens, a witness for the complainants, fully substantiates the "holding out" shown by this advertisement and the others, which are a part of the evidence in these cases. I find, as a fact, from the evidence in these cases, that California Development Company held itself out as ready, willing, and able to sell from its water system water for domestic purposes and irrigation for all of the Imperial Valley.

The particular agencies which California Development Company at first selected for this purpose were mutual water companies, which were incorporated by the agents of California Development Company. The mutual water companies so organized were known respectively as Imperial Water Companies Nos. 1, 4, 5, 6, 7, 8, and 12. Each of these companies had a number of shares of capital stock equal roughly to the number of acres in the territory assigned to it. That the number of shares did not always coincide with the acreage is shown by the fact that the territory assigned to Imperial Water Company No. 1 includes 140,000 acres, although the company has only 100,000 shares. Each share of stock entitled the owner to four acre feet of water per annum. The shares of stock were all sold by California Development Company and the proceeds thereof, with the exception of certain small sums, went into the treasury of California Development Company and not of the mutual water company. During the first years of this enterprise, there was no way, except in the case of the cities hereinafter referred to, in which a settler could secure any water for irrigation or domestic purposes except by buying water stock from California Development Company and paying California Development Company for the same. It is clear that this was a method adopted by California Development Company of compelling the settlers to supply the money to construct its system. The California Development Company entered into a contract with each of these mutual water companies agreeing to deliver the water necessary to irrigate the lands described in the mutual water company's articles of incorporation to the extent of four acre feet per annum for each outstanding share of stock of the mutual company, at the rate of $0.50 per

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acre foot. Copies of all these contracts are in evidence in this case. I desire to draw attention at this point to the fact that California Development Company caused each of these mutual companies to be incorporated, that it sold their stock and kept most of the proceeds, and that the mutual companies were clearly agencies created by California Development Company for the sale of its water to all the residents of Imperial Valley.

Before referring to the other sales of water from this system, I desire to draw attention to the fact that by reason of breaks in the headworks at the Colorado River, occasioning great damage to the Imperial Valley, California Development Company became heavily involved financially; that suit was brought by the holders of the company's bonds to foreclose the mortgage; that on December 13, 1909, the defendant herein, W. H. Holabird, was appointed receiver of the property of California Development Company and that ever since Mr. Holabird has been acting as receiver and has been in possession of the system and operating the same.

I shall now draw attention to the various users of water who have *directly* received water from this system, for compensation.

1. Mutual Water Companies Incorporated by California Development Company.

These companies, as already stated, are Imperial Water Companies Nos. 1, 4, 5, 6, 7, 8 and 12. Each of these companies, as stated, has a contract with the parent company, and distributes the water so received to its own stockholders on the mutual plan.

2. Mutual Water Companies Not Incorporated by California Development Company.

Water has also been sold for compensation from this system to the following mutual water companies which were not organized by California Development Company and which were not required to give up to the latter company any proceeds from the sale of their stock:

Imperial Water Company No. 2—contract dated March 20, 1913.
Imperial East Side Water Company—contract dated March 20, 1913.
Imperial South Side Water Company—contract dated March 20, 1913.
Imperial Water Company No. 3—contract dated July 29, 1913.
Imperial Water Company No. 9—contract dated January 10, 1914.

In each of these cases the contract was made after the receiver had applied to the Superior Court for authority to enter into the contract and had been granted authority so to do. The Imperial East Side Water Company has taken only a small amount of water, but the other companies have continuously taken large amounts. Certain creditors of California Development Company, who were also represented at the

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hearing before the Railroad Commission, objected to the supply of water to these companies, but their objections were overruled for the reason that their rights are confined to the protection of their interest as creditors and do not include the ultimate disposition of the property above and beyond the payment of creditors' claims, and that the extension of the company's water distribution by the receiver to new lands and the resultant extension of the volume of water applied to beneficial uses is the creation of new assets of the company and the safe vesting of rights, which if not used at an early date, are in danger of being never obtained. These reasons apply to the position of the creditors in the present proceedings before this Commission.

3. Holton Power Company.

From the beginning this system has sold water to Holton Power Company for use in the generation of electricity. This water is supplied under a contract in quantities of between 175 and 225 cubic second feet, except during shortages of water, when the amount sold is cut down.

4. Municipalities.

The city of Imperial received its water under a contract with California Development Company at the rate of $1.00 per acre foot. The receiver continued the delivery to the city until at the city's request the contract was cancelled. The city now secures its water from Imperial Water Company No. 1.

The city of Calexico received its water from the receiver until about a year ago, when the company bought stock in Imperial Water Company No. 1. The receiver had a draft of a contract with the city, to become effective when approved by the court. It was never so approved and hence never became effective. The city of Calexico accordingly received its water from this system without a contract.

The city of Holtville has been receiving water from this system ever since January, 1910, and has been paying for it at the rate of $1.00 per acre foot. This city has never had a contract and does not now have a contract covering the purchase of this water.

5. Private Individual.

W. F. McCollum has been receiving water for two and one half years from this system for the irrigation of some 180 acres and has been paying for the water in advance at the rate of $0.50 per acre foot with a minimum of 250 inches to be paid for during each twenty-four hours' use. The receiver was authorized by the court to supply the water, but no contract has ever been in existence.

6. Mexican Lands.

The delivery of water for use of these lands has already been fully explained.

The evidence in these proceedings thus shows that in pursuance of California Development Company's "holding out" of ability and desire

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to supply water for the entire Imperial Valley, water has in fact been sold from this system to mutual water companies organized by the California Development Company, other mutual companies not organized by this company, a power company, three municipalities and a private individual. While these sales have generally been under contract, this has not been the case with the city of Holtville, the city of Calexico and W. F. McCollum. The receiver's own attitude toward the contracts is shown by the fact that once he sent notice to all the mutual water companies that their rates would be increased and again he applied to the court for authority to raise the rates and to require payment in advance from most of the mutual water companies, though their contracts provide that payments shall be made half yearly *after* the water has been delivered.

I find from the evidence in this case that with the exception of two artesian wells in Holtville all the water which is used in the entire Imperial Valley for drinking, irrigation and commercial purposes is secured, directly or indirectly, from the system of California Development Company. The territory so supplied contains 400,000 acres, and the value of real and personal property in the Valley is in excess of $50,000,000.00. Over 30,000 people, including five incorporated cities, are dependent upon this system for their water. Upon this system absolutely depends the welfare of all these people and the security of their property.

I find from the evidence in these proceedings that the Colorado River is the only feasible source of water supply for the people of the Imperial Valley; that the only water which is being brought to this valley is conveyed through the system of the California Development Company; that this system has a monopoly of supplying water for the Imperial Valley, and that as a practical matter no other water company could take water from the Colorado River and serve the Imperial Valley in competition with the California Development Company or its receiver.

This is clearly a case in which the public welfare requires that this water system be subjected to public regulation and supervision as a public utility. This company, if it is not a public utility, can make or break every landowner in the Imperial Valley. It can deliver water to one and refuse to deliver water to another. By the expedient of refusing to sell except by contract, it can discriminate ad libitum. It can charge one customer one price for water and another customer in the same condition another price. If it is not a public utility, neither mandamus nor any action by this Commission can avail to protect water users if the company refuses to carry out its contracts, and the only remedy remaining will be the more or less futile remedy in the courts on the contract. If this is not a public utility, the court

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from which the receiver takes his instructions has the option to say whether there shall be a continuance of the water supply to any person in the Imperial Valley. Every reason which gives legislative bodies the right to say that monopolies shall be subject to public regulation and control applies with added strength to this case, where the monopoly is exercised over water—the most vital and necessary to life of all public utility services.

Under the facts as heretofore found in this opinion, is this system a public utility subject to the jurisdiction of this Commission? The answer is found in the constitution and statutes of this state. Without referring to other constitutional and statutory provisions which may be held to apply, I shall confine myself to the most recent expression of the will of the people of this state, as found in section 23 of article XII of the constitution, as amended on October 10, 1911; the Public Utilities Act originally in effect on March 23, 1912, and effective, as amended, on August 10, 1913; and chapter 80 of the Laws of 1913, effective August 10, 1913.

Section 23 of article XII of the constitution of California, as amended on October 10, 1911, provides in part that

> "Every private corporation, and every individual or association of individuals, owning, operating, managing or controlling * * * any plant or equipment within this State * * * for the production, generation, transmission, delivery or furnishing of heat, light, *water* or power * * * *either directly or indirectly* to or for the public * * * is hereby declared to be a public utility subject to such control and regulation by the railroad commission as may be provided by the legislature." The section continues as follows: "And every class of private corporations, individuals or associations of individuals *hereafter declared by the legislature to be public utilities* shall likewise be subject to such control and regulation."

The section further provides as follows:

> "The railroad commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished or services rendered by public utilities as shall be conferred upon it by the legislature, and *the right of the legislature to confer powers upon the railroad commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this constitution.*"

Section 2 of the Public Utilities Act, as amended by chapter 553 of the Laws of 1913 (Statutes 1913, page 934), reads in part as follows:

> "(*w*) The term 'water system,' when used in this act, includes all reservoirs, tunnels, shafts, dams, dikes, head-gates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property owned, controlled, operated or managed in

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connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment or measurement of water for power, irrigation, reclamation or manufacturing, or for municipal, domestic or other beneficial use."

"(*x*) The term 'water corporation,' when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water system for compensation within this state."

"(*bb*) The term 'public utility,' when used in this act, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger and warehouseman, where the service is performed for or the commodity delivered to the public or any portion thereof. The term 'public or any portion thereof' as herein used means the public generally, or any limited portion of the public including a person, private corporation, municipality or other political subdivision of the state, for which the service is performed or to which the commodity is delivered, and whenever any common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger or warehouseman performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger or warehouseman is hereby declared to be a public utility subject to the jurisdiction, control and regulation of the commission and the provisions of this act. Furthermore, when any person or corporation performs any service or delivers any commodity to any person or persons, private corporation or corporations, municipality or other political subdivision of the state, which in turn either directly or indirectly, mediately or immediately, perform such service or deliver such commodity to or for the public or some portion thereof, such person or persons, private corporation or corporations and each thereof, is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act."

Sections 1, 2, 3 and 4 of chapter 80 of the Laws of 1913 (Statutes 1913, p. 84), read as follows:

"Section 1. Whenever any person, firm or private corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water system within this state, sells, leases, rents or delivers any water to any person, firm, private corporation, municipality or any other political subdivision of the state whatsoever, except as limited by section 2 hereof, whether under contract or otherwise, such person, firm or private corporation is a public utility, and subject to the provisions of the public utilities act of this state and the jurisdiction, control and regulation of the railroad commission of the State of California.

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"Sec. 2. Whenever any private corporation or association is organized for the purpose solely of delivering water to its stockholders or members at cost, and delivers water to no one except its stockholders or members at cost, such private corporation or association is not a public utility, and is not subject to the jurisdiction, control or regulation of the railroad commission of the State of California.

"Sec. 3. Whenever any private corporation or association organized for the purpose of delivering water solely to its stockholders at cost does deliver water to others than its stockholders or members for compensation, such private corporation or association becomes a public utility and subject to the terms of the public utilities act and the jurisdiction, control and regulation of the railroad commission of the State of California.

"Sec. 4. Whenever any private corporation or association is organized both for the purpose of delivering water to its stockholders or members at cost and to persons, firms, corporations, municipalities or other political subdivisions of the state in addition thereto, such private corporation or association is a public utility and subject to the provisions of the public utilities act and to the jurisdiction, control and regulation of the railroad commission of the State of California."

Bearing in mind these constitutional and statutory provisions, I find that the water system of California Development Company is clearly a public utility system and that W. H. Holabird, as receiver thereof, is a public utility, subject to the jurisdiction of the Railroad Commission. This conclusion is based on the findings of fact which have been set forth in this opinion and, in addition thereto, on the following specific findings of fact:

1. The water system of California Development Company is owned, controlled, operated and managed in connection with and to facilitate the diversion, development, supply, distribution, sale, furnishing and carriage of water for power, irrigation, reclamation, municipal and domestic use.

2. W. H. Holabird, as receiver of the water system of California Development Company, is controlling, operating and managing the water system of California Development Company for compensation within this state.

3. The water system of California Development Company and W. H. Holabird, as receiver thereof, are engaged in the business of the sale of water for compensation to W. F. McCollum, an individual, the Holton Power Company, a corporation, the City of Holtville, a municipal corporation, and to numerous mutual water companies as hereinbefore indicated.

4. California Development Company is not organized for the purpose of delivering water to its stockholders or members at cost, but on the contrary, is a corporation organized for profit.

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5. The water system of California Development Company and W. H. Holabird, as receiver thereof, are engaged in the business of selling water for compensation directly to portions of the public and indirectly to and for the entire public of Imperial Valley, State of California.

6. The water system of California Development Company and W. H. Holabird, as receiver thereof, have a monopoly of the business of transmitting water for sale, rental and distribution from the Colorado River (which is the only source of water for the Imperial Valley) for use for all purposes in the Imperial Valley.

Under the facts as shown in these proceedings and the constitution and statutes of this state applicable thereto, there can be no question whatever that the water system of the California Development Company, and W. H. Holabird, as receiver thereof, are respectively a public utility water system and a public utility, and are subject to the jurisdiction of the Railroad Commission unless it can be held that the constitution and statutes of California violate in this regard some provision of the federal constitution.

As the facts before the court in the *Thayer* case, *supra,* differ materially from the facts now ascertained and set forth herein, and as all the constitutional and statutory provisions hereinbefore set forth were enacted subsequent to the time the complaint in the *Thayer* case was filed, I am of the opinion that the decision in that case can be of but little assistance herein, and accordingly shall pass on to a consideration of the federal questions.

While this Commission has no power to render invalid any provision of the constitution or statutes of this state, and will ordinarily proceed on the assumption that the same are valid, the question here presented is of such vital importance and so fundamental in public utility regulation that I desire briefly to express my views thereon.

It is urged in this proceeding that defendant's water system has never been "held out" as serving the public, that it has never been "dedicated" to public use, that the constitutional and statutory provisions of this state, if applied to this system, would amount to a "taking" of property and that such application would hence violate the fourteenth amendment to the federal constitution. This contention makes necessary a consideration of the principles underlying public utility regulation by the states and of the attitude of the Supreme Court of the United States toward state action in this field.

The declarations in the constitution and statutes of this state which have hereinbefore been set out constitute a finding by the people of this state that the public interest and general welfare require that the classes of corporations, associations and persons therein specified shall be deemed public utilities and subject to supervision and regulation as such. The Supreme Court of the United States has repeatedly held

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that whenever possible it will sustain such findings and that if any state of facts can reasonably be held to exist to sustain such findings, the court will do so.

In *Munn* vs. *Illinois,* 94 U. S. 113, 132, referring to constitutional and statutory provisions of Illinois declaring grain elevators and warehouses to be public warehouses, Chief Justice Waite, speaking for the court, said:

> "For our purpose, we must assume that if a state of facts could exist that would justify such legislation, it actually did exist when the statute under consideration was passed. For us the question is one of *power,* not of expediency. If no state of circumstances could exist to justify such a statute, then we must declare this one void, because in excess of the legislative power of the state. But if it could, we must presume it did. Of the property of legislative interference within the scope of legislative power, the legislature is the exclusive judge."

In *German Alliance Insurance Co.* vs. *Lewis, Superintendent of Insurance of Kansas,* 233 U. S. 389, 413, decided on April 20, 1914, in which case the court passed on the validity of a statute of Kansas for the first time subjecting the insurance business to regulation as to rates, the court says on the same point:

> *"What makes for the general welfare is necessarily in the first instance a matter of legislative judgment and a judicial review of such judgment is limited."*

The court then quotes from *Chicago, Burlington & Quincy Railroad Company* vs. *McGuire,* 219 U. S. 549, 569, as follows:

> "The scope of judicial inquiry in deciding the question of *power* is not to be confused with the scope of legislative considerations in dealing with the matter of *policy.* Whether the enactment is wise or unwise, whether it is based on sound economic theory, whether it is the best means to achieve the desired result, whether, in short, the legislative discretion within its prescribed limits should be exercised in a particular manner, are matters for the judgment of the legislature, and the earnest conflict of serious opinion does not suffice to bring them within the range of judicial cognizance."

The Supreme Court of the United States has taken the same attitude with reference to state statutes which declare what constitutes a "public use" in eminent domain proceedings and has uniformly upheld such statutes as against the charge that the use was in fact a private use. See *Clark* vs. *Nash,* 198 U. S. 361, in which case the legislature of Utah declared that the enlargement of one man's irrigating ditch to enable another man to run his water through it is a public use; *Strickley* vs. *Highland Boy Gold Mining Company,* 200 U. S. 527, in which case the legislature of Utah made a similar finding as to an aerial bucket line over private property between a mine and a railroad

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to accommodate one mine; *Hairston* vs. *Danville & Western Railway Company*, 208 *U. S.*, 598, and *Union Lime Company* vs. *Chicago and Northwestern Railway Company*, 233 U. S. 211, in which cases the state legislatures had given railway companies power to condemn a right of way across private property to build spur tracks to serve an individual shipper in each case. In the *Union Lime Company* case, decided on April 6, 1914, Justice Hughes says, at page 218:

> "The assignments of error come to the single point—as to the character of the use. The state through its highest court declares the use to be a public one, and we should accept its judgment unless it is clearly without ground."

The foregoing authorities and others to which it is not necessary to refer show that if a state constitution or statute makes a finding on a question of general welfare, public interest, or public use, the Supreme Court of the United States will, whenever possible, sustain that finding.

I shall now consider the principles under which a state must act in declaring that any agency is a public utility and subject to public regulation. As I shall show, the Supreme Court of the United States has definitely decided that if the circumstances surrounding a particular business are such that the public has a special interest therein and that the general welfare demands public regulation and supervision thereof, the state has the right under its police power to find and declare the fact of the public interest and thereafter to regulate and supervise the business, entirely irrespective of whether its owners have "held themselves out" as being public utilities, and without any "dedication" except that they have engaged in that particular business and without any compensation for any so-called "taking," there being here no "taking" in the constitutional sense.

The leading case is *Munn* vs. *Illinois*, *supra*. It appears that in 1870 the constitution of Illinois was amended so as to declare that all elevators or storehouses where grain or other property is stored for a compensation, whether the property stored be kept separate or not, should be public warehouses. The statute of April 25, 1871, divided such public warehouses into three classes, provided for their licensing and prescribed the maximum rates to be charged by each class. Two individuals, named Munn and Scott, had been engaged in storing grain of different owners in an elevator in Chicago for many years prior to the constitutional amendment. They had not "dedicated" their property to the public in any way further than to engage in the warehouse business. They had not held themselves out as being public utilities, and had conducted their business free from regulation. After the statute of 1871 was passed, they refused to secure a license or to conform to the rates established. They were prosecuted and fined $100.00. The judgment of the lower court was affirmed by the Supreme

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Court of Illinois and finally by the Supreme Court of the United States. The latter court held that the people of Illinois had the right, through their constitution and statutes, to declare that the elevator of Munn and Scott was a public warehouse and to regulate it as such.

Chief Justice Waite, after referring to the fact that under the police power it has been customary from time immemorial to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers and innkeepers and to establish maximum rates to be charged by them, proceeds to analyze the underlying principles, at page 125, as follows:

> "This brings us to inquire as to the principles upon which this power of regulation rests, in order that we may determine what is within and what without its operative effect. Looking, then, to the common law, from whence came the right which the constitution protects, we find that when private property is 'affected with a public interest, it ceases to be *juris privati* only.' This was said by Lord Chief Justice Hale more than two hundred years ago, in his treatise De Portibus Maris, 1 Harg. Law Tracts 78, and has been accepted without objection as an essential element in the law of property ever since. *Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has created. He may withdraw his grant by discontinuing the use, but, so long as he maintains the use, he must submit to the control.*"

Again, at page 133, the Chief Justice says:

> "Neither is it a matter of any moment that no precedent can be found for a statute precisely like this. It is conceded that the business is one of recent origin, that its growth has been rapid, and that it is already of great importance. And it must also be conceded that it is a business in which the whole public has a direct and positive interest. It presents, therefore, a case for the application of a long known and well established principle in social science, and this statute simply extends the law so as to meet this new development of commercial progress. *There is no attempt to compel these owners to grant the public an interest in their property, but to declare their obligations if they use it in this particular manner.*"

It thus appears clearly from this decision that whenever the facts surrounding the business are such that the public has an interest therein, or is interested therein, sufficiently to justify regulation from the standpoint of the public welfare, the legislature has the right to declare the fact and provide for the regulation. As there is "no attempt to compel these owners to grant the public an interest in their property," there is of course no "taking" and hence no compensation for any taking. The case shows clearly the distinction between the

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power of eminent domain and the police power. There is no attempt here to compel the owners against their will to engage in a business which is subject to regulation. Munn and Scott entered into the warehouse business voluntarily and they must be assumed to have done so with knowledge that, because of the character of the business or the circumstances surrounding it, the business might thereafter become of such special interest to the public that the general welfare would require its regulation as a public utility.

The principles established in the *Munn* case have been frequently reaffirmed by the Supreme Court of the United States.

In *Township of Burlington* vs. *Beasley*, 94 U. S. 310, the Supreme Court, relying on the *Munn* case, upheld a Kansas statute providing that "all water, steam or other mills, whose owners or occupiers grind or offer grain for toll or pay are hereby declared public mills."

In the *Sinking Fund Cases*, 99 U. S. 700, Chief Justice Waite, referring to the *Munn* case, said at page 747:

> "The inquiry there was as to the extent of the police power in cases where the public interest is affected; and we held that when an employment or business becomes a matter of such public interest and importance as to create a common charge or burden upon the citizen—in other words, when it becomes a practical monopoly, to which the citizen is compelled to resort, and by means of which a tribute can be exacted from the community—it is subject to regulation by the legislative power."

In *Spring Valley Water Works* vs. *Schottler*, 110 U. S. 347, the court, at page 354, says:

> "That it is within the power of the government to regulate the prices at which water shall be sold by one who enjoys a virtual monopoly of the sale, we do not doubt. That question is settled by what was decided on full consideration in *Munn* vs. *Illinois*, 94 U. S. 113. As was said in that case, such regulations do not deprive a person of his property without due process of law."

It will hardly be necessary to draw attention to the fact that this language applies exactly to the present case.

In *Budd* vs. *New York*, 143 U. S. 517, the court upheld a New York statute establishing maximum charges for elevating, receiving, weighing and discharging grain. After an exhaustive review of the *Munn* case, and of later federal and state cases in accord therewith, Justice Blatchford, at page 545, says:

> "The elevator is devoted by its owner, who engages in the business, to a use in which the public has an interest, and he must submit to be controlled by public legislation for the common good."

In *Brass* vs. *North Dakota*, 153 U. S. 391, the Supreme Court upheld a North Dakota statute declaring grain elevators to be public warehouses and their owners to be public warehousemen and establishing rates of

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storage. The case is important in that it does not rest upon the basis of monopoly, but on the general principle that one who engages in a business in which the public has an interest must submit to regulation as long as he remains in the business, if the general welfare demands such regulation.

In *Cotting* vs. *Kansas City Stockyards Company*, 183 U. S. 79, the Supreme Court, while declaring void a Kansas statute regulating stockyards because the statute applied only to one company, leaving the others unregulated, reaffirmed the *Munn* case and also declared the state's power to regulate stockyards as public utilities as follows, at page 85:

> "While not a common carrier, nor engaged in any distinctively public employment, it is doing a work in which the public has an interest, and therefore must be considered as subject to governmental regulation."

Finally, in *German Alliance Insurance Company* vs. *Lewis, Superintendent of Insurance of Kansas*, 233 U. S. 389, decided on April 20, 1914, the Supreme Court expressly reaffirms the *Munn, Budd,* and *Brass* cases, applies their doctrine to the insurance business, where there can be no possible "grant of a property interest," and definitely establishes the principle that a business, at first by its nature or the surrounding circumstances clearly private in character, may rise to be of public concern and be subject, in consequence, to governmental regulation.

A Kansas statute gave the state superintendent of fire insurance power to regulate and establish rates of fire insurance, and was by its terms applicable to insurance companies which for many years had done business in Kansas without regulation and which protested against being regulated. One of these companies, the German Alliance Insurance Company, asked for an injunction against the enforcement of the statute, on the ground that its business was a private business and that the proposed state regulations consequently amounted to a taking of private property for public use. Justice McKenna, who delivered the opinion of the court, reviewed and affirmed the *Munn, Budd* and *Brass* cases. Referring to the *Munn* case, Mr. Justice McKenna said:

> "In other words, that which had been private property had from its uses become, as was declared, of public concern."

Again:

> "The principle was expressed as to property, and the instance of its application was to property, but it is manifestly broader than that instance. It is the *business* that is the fundamental thing; property is but its instrument, the means of rendering the service which has become of public interest."

Referring then to the dissenting opinion of Justice Field in the *Munn* case and Justice Brewer in the *Budd* case, which dissenting opinions

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voice with consummate ability every objection at present made by certain members of the bar and others in this state, against the performance by government of the work of government as that work grows *pari passus* with changing conditions, Justice McKenna, with an insight which looks beyond the doubt and hesitancy of the present to the needs of our people in the future, says:

> "Against that conservatism of the mind, which puts to question every new act of regulating legislation and regards the legislation invalid and dangerous until it has become familiar, government—state and national—has pressed on in the general welfare; and our reports are full of cases where in instance after instance the exercise of regulation was resisted and yet sustained against attacks asserted to be justified by the constitution of the United States. The dread of the moment having passed, no one is now heard to say that rights were restrained or their constitutional guarantees impaired."

Referring to *Brass* vs. *Stoeser, supra,* Justice McKenna says:

> "The case is important. It extended the principle of the other two cases and denuded it of the limiting element which was supposed to beset it—that to justify regulation of a business the business must have a monopolistic character. That distinction was pressed and answered."

Finally, in holding the Kansas statute to be valid, Justice McKenna says:

> "The cases need no explanatory or fortifying comment. *They demonstrate that a business, by circumstances and its nature, may rise from private to be of public concern and be subject, in consequence, to governmental regulation.* And they demonstrate, to apply the language of Judge Andrews in *People* vs. *Budd* (117 N. Y. 1, 27), that the attempts made to place the right of public regulation in the cases in which it has been exerted, and of which we have given examples, upon the ground of special privileges and conferred by the public on those affected can not be supported: '*The underlying principle is that business of certain kinds holds such a peculiar relation to the public interests that there is superinduced upon it the right of public regulation.*' "

If there is any business which holds such a peculiar relation to the public interest that it demands public regulation, it is certainly the water business. Just as in the *Oil Pipe Line* cases, decided by the Supreme Court of the United States on June 22, 1914, the court looked through the shadow to the substance and held that oil pipe lines which by compelling the sale of oil to them before it was transported through their pipe lines had technically avoided being common carriers were nevertheless common carriers subject to governmental regulation; so here the California Development Company, notwithstanding the device of placing intermediaries between itself and the public, has nevertheless in fact and effect been distributing water to the whole public of Imperial

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Valley. Its monopoly of the business alone justifies regulation of its business under the *Munn* case and others. But as Justice McKenna points out, monopoly is by no means a condition precedent to regulation. If the business, even though not a monopoly, bears such a peculiar relation to the public that the general welfare demands public regulation, then, as in the case here, the public has the right to impose the regulation which its interests demand.

In the present case, while a regard to the shadow and to mere form might not lead to the conclusion that the water system of California Development Company has been used to serve the whole public, I find that in substance the system has been serving water to the entire Imperial Valley. And if it be held that this finding is not conclusive, I find that under the recent constitutional and statutory changes, all of which the state under the decisions of the highest court in the land had the right to enact and to make applicable to this system, the system of the California Development Company is now a public utility water system and W. H. Holabird, as receiver thereof, is now a public utility subject to the power and jurisdiction of the Railroad Commission of this state.

I have given consideration to defendant's objection that this Commission can not proceed, for the reason that complainants have not secured leave to sue from the court which appointed the receiver, and find that the point is not well taken. The Public Utilities Act, in defining a water utility, specifically includes (section 2, x) a "receiver appointed by any court whatsoever" operating such utility. Section 60 of the act, referring to the filing of complaints and the procedure thereon, provides in part that "upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the corporation or person complained of," whereupon under the Commission's rules the defendant must satisfy the complaint or answer within the time prescribed by the Commission. There is no intimation anywhere in the act that if the utility is a receiver, the consent of some other authority must be secured before the Commission may proceed as directed by the Public Utilities Act to do. The receiver derives his powers from the statutes of this state and these statutes are subject to modification by subsequent statutes, as has here been done. See, also, to the effect that the reason of the rule requiring the consent of the court appointing a receiver to be obtained before bringing suit does not apply before administrative bodies, such as the Interstate Commerce Commission and this Commission: *Board of Trade of Troy* vs. *Alabama Midland Railway Co.*, 6 I. C. C. R. 1, and *Evans* vs. *Union Pacific Railway Co.*, 6 I. C. C. R. 520.

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Before leaving this point, I desire also to direct attention to the fact that under the great weight of authority of the later decisions, a failure to secure permission to sue a receiver is merely an omission which will subject the party suing without such leave to proceedings for contempt of the court appointing the receiver, and does not impair the jurisdiction of the court to proceed with and determine the cause: *High on Receivers*, 4th ed., 1910, sec. 254*a*; and 34 *Cyc.* 411, and cases there cited.

It will be understood, of course, that the present decision deals only with the question of this Commission's jurisdiction. If this decision stands, it by no means necessarily follows that complainants in any or all of these cases will ultimately secure the relief for which they ask.

I understand that some of the parties may desire to have this decision reviewed by the Supreme Court before the cases are tried on the issues of fact. If so, the Commission will do its full share in expediting the presentation of the case, to the end that an early decision may be secured.

I submit the following form of order:

ORDER.

A public consolidated hearing having been held in the above entitled cases on the question whether the Railroad Commission has jurisdiction over the defendants and this question being now ready for decision,

The Railroad Commission, in reliance on each statement or finding of fact contained in the opinion which precedes this order, hereby finds that the water system of California Development Company is a public utility water system and that W. H. Holabird, as receiver thereof, is a public utility, subject to the jurisdiction of the Railroad Commission.

It is accordingly ordered that the demurrers in each of the above entitled cases be and the same are hereby overruled, and defendant in each of said cases is hereby given twenty (20) days from service of a certified copy of this opinion and order in which to satisfy the respective complaints or to answer.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of July, 1914.

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DECISION NO. 1689.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY FOR AUTHORITY TO ISSUE CERTAIN NOTES AND BONDS.

Application No. 1243.

Decided July 28, 1914.

Applicant authorized to execute its notes of the face value of $900,000.00, bearing interest at 6 per cent, said notes to be sold at not less than 96, proceeds to be used to pay off portions of applicant's floating indebtedness; also to pledge bonds at the ratio of 2 to 1 as security therefor. Applicant directed to provide such portions of a proposed stock assessment as may be required to amortize the note discount.

Jesse H. Steinhart, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Oakland, Antioch and Eastern Railway for an order authorizing the issue of promissory notes in the principal sum of $900,000.00 payable three years from July 1, 1914, with interest at the rate of 6 per cent per annum, payable quarterly, and for authority to issue 330 bonds in addition to those heretofore authorized by the Commission, these new bonds, together with those heretofore authorized, to be pledged as security for the payment of the above mentioned promissory notes on a basis of 200 per cent of bonds to the face value of the notes.

Applicant is engaged in the operation of an electric railroad extending from the city of Oakland, county of Alameda, to the city of Sacramento, county of Sacramento. The total mileage operated is approximately 105 miles.

This Commission has heretofore in Applications Nos. 608, 666 and 939 authorized the issuance of bonds by applicant, and in the opinions preceding these orders the financial condition of applicant has been extensively reviewed.

The floating indebtedness of this company is reported as of April, 1914, to be $1,349,960.44. As an offset there is cash on hand of $44,561.85 and accounts receivable of $89,144.34, which leaves a difference between total floating debt and offset of $1,216,254.25, and since said time there has been paid the sum of approximately $185,000.00 received from stock assessment. The testimony is that the money represented by this floating indebtedness all went into construction of applicant's roads and additions and betterments to its plant. It appears that some of this indebtedness is represented by a charge of interest on plant investment during construction, but it is unnecessary

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at this time to determine whether or not the full amount of this interest is a proper capital charge, as the amounts which actually went into betterments amount to more than the sum which is proposed to be realized from the notes herein asked to be authorized.

Applicant's road has been in operation a comparatively short time, and it is necessary to resort to estimates of future earnings in order to determine whether or not it will be able to pay its operating expenses and fixed charges, including the interest on these notes. Such an estimate has been submitted, and it shows an earning which will enable applicant to carry its operating expenses and fixed charges during the life of these notes.

It is proposed to sell these notes at 96 per cent of face value and to pay a commission on such sale of 4 per cent. This would net applicant 92 per cent of face, or $828,000.00, with which a like amount of floating indebtedness is to be paid off.

Applicant further asks that the bonds to be pledged as collateral for these notes may be taken over by the note holders at any time on a basis of 80 per cent for the bonds, the minimum heretofore fixed by the orders of the Commission, for 100 per cent face of notes. I think this is not objectionable, because once the notes are outstanding the effect of converting them at full face into bonds at 80 would be the same as the purchase of bonds at the minimum heretofore fixed by the Commission of 80 and the retirement of notes with this money.

The net result of this transaction will be to extend the time of payment of $828,000.00 of existing floating indebtedness for three years, and I think the price being paid for the money under the circumstances is not exorbitant. To compel the issuance and sale of bonds at this time would result in the bonds being sacrificed at a very low figure to the serious detriment of this company, and while I think the pledging of the bonds of applicant at 50 per cent of their face value is not to be encouraged, still in view of the evidence in this matter these are the very best terms and conditions at this time obtainable.

The issuance of these notes, however, and their sale at less than par should not be allowed to put this company in any worse condition than it is at this time, and therefore we should call upon applicant to make up from stock assessments during the life of these notes the discount at which they are sold. As this company has notified its stockholders of its intention to levy two more assessments of $1.50 each, a portion of the money so collected may be used for this purpose.

I believe the application should be granted, and submit herewith the following form of order:

ORDER.

Application having been made by Oakland, Antioch and Eastern Railway for an order authorizing the issue of $900,000.00 face value of

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promissory notes to be dated July 1, 1914, payable three years after date with interest at 6 per cent per annum, payable quarterly, and for an order authorizing the issue of $330,000.00 face value of its first mortgage 5 per cent bonds, and to pledge said bonds heretofore authorized by this Commission as security for the payment of said promissory notes, and a hearing having been duly held, and it appearing to the Commission that the money to be secured by the issue of said notes and said bonds is necessary and reasonably required by said company for the discharge of its obligations, and that the purposes for which the proceeds of the sale of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission of the State of California does hereby authorize the issue by Oakland, Antioch and Eastern Railway of $900,000.00 face value of promissory notes to be dated July 1, 1914, bearing interest at the rate of 6 per cent per annum, payable three years after date, and to be redeemable in whole or in part at the option of the railroad at any interest date, at their face value and accrued interest on not less than thirty days' notice. And said company is further authorized to issue $330,000.00 face value of its first mortgage 5 per cent bonds and to pledge said bonds, together with bonds heretofore authorized by this Commission, as security for the payment of said promissory notes, on the basis of $1,000.00 of bonds to $500.00 of promissory notes; and applicant is further authorized to make said promissory notes convertible at the option of the holder thereof before maturity on the basis of 80 per cent of the par value of said bonds, with accrued interest, as against the par value of said notes with accrued interest. Said notes and said bonds shall be issued upon the following terms and conditions, not otherwise:

1. Before issuing any of said notes or said bonds applicant shall submit for the approval of this Commission the contract or agreement under which said notes are to be sold.

2. Said notes are to be sold for not less than 96 per cent of their face value and accrued interest; provided, applicant may pay a commission for the sale of said notes of not to exceed 4 per cent of the face value thereof. In any event, these notes shall be sold so as to net applicant not less than 92 per cent of face value.

3. The proceeds from the sale of these notes shall be used only for the purpose of paying off floating indebtedness, which indebtedness is shown in detail in a list or statement thereof on file with this Commission, reference to which is hereby made.

4. Immediately upon the release from pledge of any of the 330 bonds herein authorized to be issued, the same shall be returned to the treasury of applicant and shall not thereafter be issued except upon further order of this Commission.

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5. Said company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of said notes hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, in accordance with the Commission's General Order No. 24, stating the sale of such notes during the preceding month, the terms and conditions of such sale, the moneys realized therefrom and the use and application of such moneys, and showing in detail, including the numbers thereof, the bonds pledged as security for the payment of said notes.

6. This Commission will expect applicant to make up by stock assessment during the life of the notes herein authorized to be issued the discount at which such notes are sold below par. Money obtained from either of the two proposed assessments of which applicant has heretofore notified its stockholders may be used for this purpose.

7. The authority hereby given to issue said notes and said bonds is contingent upon the payment of the fee provided in the Public Utilities Act.

8. The authority hereby given to issue such notes and bonds shall apply only to notes and bonds issued by said company on or before the 1st day of January, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of July, 1914.

Decision No. 1690.

IN THE MATTER OF THE APPLICATION OF PASADENA CONSOLIDATED WATER COMPANY FOR A RULING ON THE QUESTION OF CHARGES FOR METERS AND SERVICE CONNECTIONS.

Application No. 717.

Decided July 28, 1914.

Applicant petitions the Commission for a ruling as regards its right to continue collecting a charge for installing service connections and meters in certain unincorporated territory adjacent to Pasadena.

Held, As determined by the Commission in previous rulings on matters of this nature; a water company has no right to charge consumers for portions of its system to which the company subsequently claims title. Also, in view of the fact that this company has installed meters at its own expense on other portions of its system, a uniform practice should be followed affecting all portions alike.

J. B. Coulston, for Pasadena Consolidated Water Company.

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REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application by Pasadena Consolidated Water Company for a ruling on the question whether the company may continue to make a charge for service connections and meters. The company has been charging $15.00 for each connection for a ¾-inch meter and $25.00 for each connection for a 1-inch meter. About twelve new connections are made each year, so that the money involved in this application is not large.

A public hearing on this application was held in Pasadena on October 3, 1913. The decision has been held in abeyance awaiting the decision of the Supreme Court of this State in the so-called Glendale case (*City of Glendale* vs. *Title Guarantee and Trust Company, Trustee,* Vol. 2, Opinions and Orders of Railroad Commission, p. 989). However, as it is possible that the decision in that case may have no direct bearing on unincorporated territory, such as that here involved, I have decided to submit my opinion without further delay.

Applicant supplies water for domestic and irrigation purposes to persons desiring the same in a tract of some one thousand acres lying directly east of the city of Pasadena. Applicant relies for authority to make the service connection and meter charge, on the language of certain contracts which it made with the owners of the tracts constituting the one thousand acres at the time applicant began the operation of its system. These tract owners desired an adequate supply of water, largely to enable them to sell lots in their respective tracts, and agreed to construct the mains in their respective tracts and to donate them to applicant in addition to other considerations, and applicant in turn agreed to supply water at rates specified in the contracts. Each of these contracts contains a sentence as follows:

> "The first party (Pasadena Consolidated Water Company) further agrees to supply and install meters (said meters and cost of installing the same to be paid for by the consumers of water), and to regulate the use of same in accordance with such reasonable rules as it may hereafter adopt for the furnishing of water."

The contracts also provide that subsequent purchasers of land in the respective tracts shall be entitled to the benefits thereunder, and also "shall take said land and receive the benefits accruing under said contract, subject to all the terms herein contained."

There is no evidence that these contracts were ever recorded or that subsequent purchasers of land had any notice of their terms. One of the water users testified that his deed contained no reference to this charge, and it may be inferred from the record that he knew nothing about the terms of the contract between the tract owner and Pasadena Consolidated Water Company.

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Applicant urges as a further reason for continuing this charge that it is not making a reasonable profit on its investment.

The general rule which this Commission has repeatedly applied and which it will continue to apply, unless special facts are shown, and unless a contrary rule is established by the Supreme Court, is that it is as much the duty of a water company to install the service connection to the property line and the meter, at its own expense, as it is to build the wells, reservoirs, and mains. A contrary rule would compel the user to donate part of its system to the water company.

It hardly seems equitable to hold that future lot purchasers shall be bound by the terms of a contract between third parties of which terms they had no notice. The language of the contracts themselves provides only that the consumer shall pay for the meters and the cost of installing the same, while the charge of $15.00 covers also the cost of the service connection to the property line and the cost of installing the same, matters not covered by the contracts.

Pasadena Consolidated Water Company claims not merely control, but also ownership, in the meters for which its customers have paid. The more equitable rule would seem to be to have the company pay for the meter and the service connection to the property line, if it is to claim ownership.

Subsequent to the submission of this application, Pasadena Consolidated Water Company acquired by donation the entire water system of Pasadena Park Improvement Company. The system was unmetered. Pasadena Consolidated Water Company has now metered the entire system, but has done so entirely at its own expense without any charge to the consumer. It would seem that instead of having one rule apply in one part of the system and another rule in another part, it would be better to apply the same rule all over the system.

After a careful consideration, I have reached the conclusion that there is no valid reason why the general rule applied by this Commission should not govern in this case. In reply to the request for a ruling herein, I find that Pasadena Consolidated Water Company should install service connections to the property line and meters at its own expense. The costs so incurred are proper charges to capital account and will be allowed in establishing rates.

Mr. Coulston, applicant's president, agreed at the hearing that if this ruling were made, he would refund all service connection charges collected subsequent to the date of the application herein.

I am confident that applicant will comply with this agreement and also desist from further similar charges in the future, without a formal order and hence submit this opinion as closing this proceeding.

The foregoing opinion is hereby approved and ordered filed as the opinion of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of July, 1914.

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DECISION No. 1691.

IN THE MATTER OF THE APPLICATION OF UNITED RAILROADS OF SAN FRANCISCO, E. N. ROLLINS AND SONS AND UNION TRUST COMPANY OF SAN FRANCISCO, FOR AN ORDER AUTHORIZING THE EXECUTION OF CAR EQUIPMENT TRUST NOTES.

Application No. 1076.

Decided July 28, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Application having been made by United Railroads of San Francisco for a modification of the order made herein on the 22d day of May, 1914, and it appearing to the Commission that said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that the order heretofore made herein on the 22d day of May, 1914, is hereby modified and amended to read as follows:

ORDER.

Application having been made by United Railroads of San Francisco for an order authorizing the execution of a car equipment trust, and a public hearing having been had and it appearing to the Commission that said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that United Railroads of San Francisco is hereby authorized to enter into an agreement whereby there shall be purchased for the use of United Railroads of San Francisco 65 cars, at a total cost to the railroad company of $378,500.00. The railroad company to pay for said cars in installments and to have immediate possession thereof, the title to the same, however, to be placed in some person or corporation hereafter to be selected, until full payment therefor is made. The car trust certificates shall be issued with these cars as security, which certificates will bear 5½ per cent interest, the payment of principal and interest to be guaranteed by the railroad company.

Before entering into any agreement for the purchase of these cars or the issuance of the trust certificates United Railroads of San Francisco shall submit for the approval of the Commission the agreement or contract under which it is proposed that said cars shall be purchased, and said certificates issued.

Dated at San Francisco, California, this 28th day of July, 1914.

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Decisions Nos. 1692, 1693, 1694 and 1695, grade crossings; not printed. See end of volume.

DECISION NO. 1696.

IN THE MATTER OF THE APPLICATION OF MODESTO GAS, LIGHT, COAL AND COKE COMPANY FOR PERMISSION TO RENEW NOTES.

Application No. 1208.

Decided July 28, 1914.

Applicant authorized to execute its note in the sum of $42,778.00, bearing interest at 8 per cent, and deliver same to Frank A. Cressey in lieu of an unsecured like amount now owed to him.

L. J. Maddox, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by Modesto Gas, Light, Coal and Coke Company for authority to issue a promissory note or notes to Frank A. Cressey in the sum of $42,778.00. Mr. Cressey is the chief stockholder of the company, and its only indebtedness, aside from small current accounts, is that due Mr. Cressey. The company is now indebted to him in the sum of $42,778.00, and the present application, therefore, is to refund this amount.

I recommend that the application be granted and submit the following form of order:

ORDER.

Modesto Gas, Light, Coal and Coke Company having applied to this Commission for authority to issue its note or notes to Frank A. Cressey in the sum of $42,778.00, and a hearing having been held and it appearing that the purposes for which it is proposed to issue said notes are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Modesto Gas, Light, Coal and Coke Company be given authority, and it is hereby given authority, to issue its note or notes to Frank A. Cressey in the sum of $42,778.00, for the purpose of refunding or extending an indebtedness of similar amount to Frank A. Cressey. The authority herein given is given upon the following conditions and not otherwise:

(1) The note or notes herein authorized to be issued shall be for a term of years, not to exceed five years, and at a rate of interest not to exceed 8 per cent per annum.

(2) The applicant herein shall report to this Commission when the note or notes herein authorized shall have been issued, and the date of maturity of said note or notes.

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(3) The authority herein given is conditioned upon the payment by the applicant of the fee prescribed in the Public Utilities Act.

(4) The authority herein given shall apply to such notes as shall have been issued on or before September 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of July, 1914.

DECISION NO. 1697.

CITY OF MONTEREY

vs.

COAST VALLEYS GAS AND ELECTRIC COMPANY.

Case No. 499.

Decided July 30, 1914.

Defendant contending that the valuation submitted by its own engineers was not given sufficient consideration, and protesting against the percentages allowed for overhead expenses, petitions for a rehearing in the above entitled case.

Held, Confirming the percentages used and the statements made in the original decision that defendant's valuation was so grossly inflated as to entitle it to no more consideration than was originally accorded it, application for rehearing denied.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

OPINION ON APPLICATION FOR REHEARING.

On June 30, 1914, this Commission rendered its decision in the above entitled case and an order was entered establishing certain specified rates to be charged by the defendant company. The rehearing was asked in a petition filed on July 18th on various grounds specified therein. Many of the grounds specified in the application do not need comment, but some are of sufficient importance to require a review.

First taking up the statement on page 4 of the petition that Mr. Millard's examination was not made in a hasty manner and that he spent as much time in Monterey as did Mr. Kelley. The best evidence on this point is the report itself, which presents no details, and which is referred to in the letter of transmittal as a "general examination of the property." The duration of Mr. Kelley's stay in Monterey is no indication of the time expended on this valuation. Both Mr. Kelley and Mr. Hoar spent the better part of a month on it—Mr. Kelley in his preparation of unit costs, etc., and later this department in comparing the various estimates.

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It appears that Mr. Millard made no effort to obtain the local costs of construction, or even compare them with his estimates based on other valuations.

Petitioner, on page 5, refers to the scant weight given this report by the Commission, and the fact that since both these appraisals check quite closely, great consideration should be accorded them. It is well to note at this point that Mr. Kelley's report is also practically identical with that of Ford, Bacon & Davis, with the exception of the following items: mains, services, meters, paving over mains, and overhead. Of these, paving over mains, amounting to $26,352.22, was excluded entirely from the value used for rate purposes, and the last item is one upon which the greatest differences of opinion ordinarily exist.

Referring to the matter of sinking fund, taken up on page 7 of petitioner's brief: The conveyance referred to here is the common basis for the purchase of public utility property and gives no indication of the financial transactions of the predecessor companies.

In regard to petitioner's contention for an allowance for accrued depreciation not cared for in past operations—the evidence on this point was insufficient to justify such allowance. The books should show whether depreciation was charged off as such or whether capital investments were made from earnings, which should have gone into the depreciation fund.

In regard to paving over mains: There can be no doubt that on a strict reproduction new theory this item is a proper one. Mr. Kelley, in omitting it from his report, was merely adhering to the Commission's previously established policy in not allowing it for rate purposes, and in accordance with his statement that he had adopted the historical method in estimating reproduction cost wherever possible.

Petitioner requests that it should be allowed to earn on 100 per cent of the value of its property if its plant is maintained at 100 per cent operating efficiency. That such a condition does not obtain in this case is evidenced by the reported loss of 42 per cent in gas distribution. The allowance of the Commission was 15 per cent, which is rather in excess of a normal loss in a well operated plant.

In connection with unit costs we have already referred to the fact that neither the engineers of Ford, Bacon & Davis nor Mr. Millard attempted to obtain actual costs on local construction. Mr. Kelley's unit costs were obtained both by comparison between the cost of doing such work in Monterey and elsewhere in California. The actual cost of main extensions during the past two years, as furnished by the company, show labor costs materially lower than those used by Mr. Kelley. Some evidence was introduced by the defendant to show that the cost of these extensions was not representative, but taking this exhibit in connection with the Commission's Exhibit No. 2, which is a map of

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Monterey and Pacific Grove on which is located the character of the soil encountered in the various districts, Mr. Kelley's costs seem more ample.

The actual costs are tabulated as follows and compared with Mr. Kelley's figures:

		Material		Labor		Total	
		Total	Costs per foot	Total	Costs per foot	Total	Costs per foot
1	760 feet 1½-inch pipe	$78 07	10.272	$14 27	5.825	$122 34	
2	1,500 feet 1½-inch pipe	117 22	9.814	39 27	2.618	186 49	
P.G. 3	500 feet 1½-inch pipe	51 47	10.348	24 76	4.952	76 50	
4	250 feet 1½-inch pipe	17 66	7.064	14 34	5.736	32 00	
5	330 feet 1½-inch pipe	26 08	7.903	20 07	6.081	46 15	
6	280 feet 1½-inch pipe	30 17	7.736	27 85	7.141	58 02	
7	231 1½-feet inch pipe	23 35	9.978	17 76	7.589	41 11	
8	222 feet 1½-inch pipe	20 10	9.054	12 79	5.761	32 89	
P.G. 9	111 feet 1½-inch pipe	10 42	9.140	7 23	6.342	17 65	
10	124 feet 1½-inch pipe	10 72	8.645	6 86	5.532	17 58	
11	250 feet 1½-inch pipe	25 86	10.344	22 90	9.16	48 76	
	4,674	$441 39		$238 10		$679 49	
Total including contingencies			9.443		5.094		14.537
Costs used by Kelley, net costs			9.650		6.500		15.550
Including contingencies			9.955		7.150		
Including contingencies and superintendence			10.950		7.865		
Total unit costs			11.278		8.101		19.379

In regard to labor cost of installing meters, after comparison with considerable data on this item, the figure used appears ample.

As previously stated, overhead percentages and intangibles, such as rights and organizations, are speculative and the mere opinion of a witness on such matters, even though uncontroverted by other expert testimony, need not be followed. When, as here, however, other engineers disagree, the Commission certainly is not bound to accept any testimony on these intangibles with which it does not agree. We have every reason to believe that the figures used in this case are sufficient to cover all items of this character. The rate of return obviously more than covers the cost of obtaining capital.

It is not deemed necessary to discuss further the question of going value, as the Commission has already fully explained its position on this point.

The actual rate of return allowed is subject to dispute inasmuch as the gas sales were incompletely reported by the company. They did not include sales to flat rate consumers which were therefore estimated. Upon the basis of our calculations the return will be at least 8 per cent.

As regards the general criticism of the decision, little need be said. The Commission used the language therein found advisedly and used the mildest term that seems applicable to such a case when it designated

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as mental dishonesty the practice of engineers in attempting to affect values by every conceivable addition that can be thought of through the means of multifarious intangibles. I reiterate the statement made in the previous opinion that the valuation presented in this case does violate the principles of consistency, and while I regret that such language should wound the feelings of any one, still I believe that this Commission is in duty bound to call attention to the tendency on the part of public utility engineers, acting as witnesses, invariably to exaggerate their values.

Mr. Woodbridge, the engineer who made the valuation herein, testified that the overhead percentages and the intangibles were put in by engineers other than himself, and it is not at his valuation that the Commission complains but at that which was figured by the financial engineers of this concern in an endeavor, no doubt, to have this Commission establish principles in this relatively unimportant case which, if followed out generally, would unjustly increase the valuation of utilities in this state.

I can not see why a public tribunal should be criticized merely because of the fact that it is awake to a program that is being conceived and carried forward before its very eyes. That there is a program on the part of large financial concerns interested in public utility securities, particularly in the stock of public utilities for which ordinarily no money has been paid, to exaggerate the value of the property of these public utilities, in my opinion, admits of no doubt. That their procedure is but natural makes it none the less necessary for public authority to be on its guard. These interests find themselves in the following condition:

The uniform practice has been in the past to construct their properties largely from the proceeds of bonds, and to give as bonus the stock of the corporation, except that which should be withheld by the promoters. Thus the actual property cost originally has been less than the face value of the outstanding bonds—to say nothing of the stock—because under this method bonds are usually sold at less than par. The problem of those in control, therefore, has been to pay the bond interest and gradually build up a value behind the stock which originally, of course, had no value. Now they find themselves halted in this program in many instances, and by valuations by commissions the real relationship between the obligations and the assets is disclosed. Almost frantic endeavors, therefore, are being made to persuade public authority to place values upon the property of these utilities which shall be sufficient to cover the bonds, and leave, if not enough to represent par for the stock, at least enough to represent something, otherwise such stock will be seen to have no value. Furthermore, many of these utilities expect, and I imagine a great many desire, public ownership of their

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properties. In anticipation of such public ownership, in rate investigations they do not have the rate inquiry alone in mind, but with an eye to the future seek for this reason, too, to import elements of value that have no other foundation than in the desire of the utility to get the highest possible price for its property.

Concerning this matter, Dr. Delos F. Wilcox, a well known consulting franchise and public utility expert of New York City, in the May issue of the *Annals of the American Academy of Political and Social Science*, says:

> "Valuations have come to be the big thing in the public utility world. Though for the present these valuations are usually made to serve as a basis for rate regulation, it is clear from the attitude of the courts that still higher valuations would be required in many cases as a basis for municipal purchase. In the play for advantages in the regulatory system now being established, the public service corporations have not been slow to see the critical importance of the valuation. Accordingly, all their ingenuity, power and influence, direct and indirect, are being brought to bear upon the problem of discovering new elements of value, and of persuading or coercing the commissions and courts to recognize them. In this way, the almost inevitable trend of valuation is upward. Commissions, both out of the desire to be fair and even liberal to the companies, and also out of fear that their decisions may be upset by the courts, are continually giving the benefit of the doubt in valuation cases to the corporations owning the property. It seems reasonably certain, therefore, that, while the most scandalous abuses in capitalization will be corrected by means of regulation, nevertheless the recognized value of the actual property will be gradually swollen until it includes every conceivable element of 'overhead charges' so-called, with certain additions thrown in for good measure."

In passing it might be well to state that Dr. Wilcox has made an exception in favor of the California Railroad Commission in this regard, and up to the present time this Commission, according to him, has not fallen into the error to the same extent as other commissions.

I repeat, as was in substance said in the main opinion, that this valuation is so inflated that it is impossible for me to conclude that there was any other design than to induce this Commission to place a value which is unwarranted upon the property of this company. If I am unjust to any one connected with this company I regret it, but I am plainly of this opinion, and it should be no more of an affront to the gentlemen connected with this institution for me to express the opinion which I have concerning their valuation than to have such opinion without expressing it.

Concern also seems to be given to the defendant because of certain language used in the opinion in this case and which is quoted out of its connection.

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The following statement appears in the application for rehearing:

> "Neither is the defendant company content to rest their case upon the theory expressed in the opinion that it and its properties are 'literally at the mercy of the state' and that by inference legal considerations touching the rights and protection to private property are to have no consideration from governmental agencies."

What the Commission said, with its connection, is as follows:

> "It should be understood by utilities and the public alike and recognized by commissions and courts that when you take away from an enterprise the right to determine for whom and for what price it will conduct its business, you have eliminated the possibility of applying the same rules of value as obtain in an unregulated enterprise. Value, as commercially understood, is something which can not be determined until after the earning power is determined and the fact upon which commissions are asked to find, when asked to find value as commercially understood, is a fact which finally has no existence until after the authority of the state has been exercised in determining the proper conditions upon which the business shall be conducted, the proper rates, and so the earning power. The sooner it is understood by the utilities that under modern conditions they are literally at the mercy of the state, the sooner they will realize that only equitable considerations are the ones that will finally have weight, and until commissions and courts representing the sovereignty of the state realize that always they should make the 'ought' determine the 'must' such governmental agencies have not become equal to their task. I do not mean to suggest that any agency should be subject to the caprice of governmental authority, but I do insist that it should be recognized as a plain fact by the utilities that they are subject to regulation and that the character of such regulation and its extent will be largely determined by the attitude of the utilities themselves."

I have recited the entire paragraph because apparently the attitude of the Commission in this regard has been misunderstood. What I had in mind was the fact, as I thought was plainly stated in the language used, that the beneficial value of a utility property to its owners is determined by what it can earn and that this earning is determined by the state, through commissions and the check of the courts, and that finally when the determination shall rest in the tribunal having the last say such determination inevitably and fixedly establishes the value of the property of the utility to its owners. Why, under these circumstances, there should be a hesitancy on the part of utilities to accept a doctrine which urges that equitable consideration in favor of as well as against the utility should be considered, I can not understand. It can not be that this utility, or any other, contends that considerations of equity when they are favorable to it shall not have weight. Conversely, then, if this doctrine is to apply at all it must apply in favor of the public if it is to be applied in favor of the utility. It is not possible to

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have general rules that shall be adapted to apply in all cases and to every state of facts. Necessarily, discretion must exist somewhere or injustice will result. It being established and admitted that utilities are subject to regulation as to their rates and earning power and that discretion exists in commissions and courts in determining these, necessarily it must follow that such commissions and courts representing the state control the welfare of utilities.

The warning thrown out in the paragraph in question can not, by fair inference, be construed as having any bearing upon the attitude of this Commission. It is specifically stated that caprice shall not be followed, and of course sound economics and sound judgment the utilities have a right to expect. But the warning held out and the suggestion that the attitude of the utilities, as regards fairness, might ultimately affect their fate arose from several concrete illustrations that have come to the attention of this Commission illustrating the folly of a course of conduct on the part of a utility which leads a community to believe that such utility is unfair. One of these illustrations will suffice to make clear just what the Commission has in mind.

A certain water company serves territory within the State of California. For a long time this water company has been in trouble with its consumers, until a feeling of mutual antagonism has grown up. Recently one of the municipalities served by this water company decided that to relieve itself of further annoyance it would install its own water system, it having the legal right, of course, to do so and there being a supply of water available. When it installed its water system it refused to pay one cent for the system of the utility theretofore serving it, with the result that such utility lost its entire investment within such municipality.

In another case now pending before this Commission, the water company, the evidence shows, has always been careful and considerate of its patrons, and in this case the municipal authorities express a desire to the Commission to secure for an adequate price the property of the utility in question, although another source of supply is available.

I suppose this defendant here does not appreciate any suggestion from this Commission as to the proper attitude a utility should assume toward the public and believes that this Commission is not within its province when making such suggestions, just as I assume the water company in the first instance would have said if such advice had been given to it. But such water company applied to this Commission for relief, which this Commission had no power to give it, and was bitterly indignant at the alleged unfair treatment given it by the municipality which refused to purchase its system.

I have gone more at length into this application for rehearing than is perhaps necessary, but I want to make it very plain that this company

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is considered by this Commission exactly as every other company which comes before this Commission, and this Commission has just as much the interest of this company in mind as it has the interest of any company doing business within the State, and is willing at all times to do anything in its power and consistent with its duty to be helpful to this company, just as it is with reference to all utilities, but the requirement that justice be done between utilities and their consumers will not permit this Commission to approve values such as here presented.

I see nothing further in the application requiring comment and I recommend that the same be denied and submit the following order:

ORDER.

The defendant herein having applied for a rehearing within the time allowed by law, and the same having been fully considered and being fully apprised in the premises,

It is hereby ordered that the application for rehearing be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of July, 1914.

DECISION NO. 1698.

IN THE MATTER OF THE APPLICATION OF MODESTO INTERURBAN RAILWAY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1190.

Decided July 28, 1914.

Applicant authorized to issue 144 shares of its capital stock of the par value of $100.00 per share, to be issued at par for cash and property considerations previously secured.

L. L. Dennett, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by Modesto Interurban Railway for authority to issue 144 shares of stock of the par value of $100.00 per share. The applicant owns a line of electric railway extending from Modesto to Empire, a distance of approximately five miles. The applicant has an authorized capital stock in the amount of $200,000.00. It has issued stock to the amount of $58,250.00.

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Applicant now asks for authority to issue 144 shares of stock at par for cash, property, or in payment of obligations. It appears that the consideration for which it is proposed to issue this stock was received by the company prior to March 23, 1912, the date when the Public Utilities Act became effective. The applicant issued certain shares subsequent to the date of the Public Utilities Act without the necessary authority from this Commission, but when its attention was called to the matter, the shares thus illegally issued were canceled.

It appears that the applicant herein has received adequate consideration for the stock now proposed to be issued, and I therefore recommend that the application be granted.

I submit the following form of order:

ORDER.

Modesto Interurban Railway having applied to this Commission for authority to issue 144 shares of its capital stock of the par value of $100.00 per share, and a hearing having been held and it appearing that the purposes for which said stock are to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Modesto Interurban Railway be given authority and it is hereby given authority to issue 144 shares of its capital stock of the par value of $100.00 per share. Said stock shall be issued upon the following conditions and not otherwise:

(1) The stock herein authorized to be issued shall be issued to the following persons in the amounts set opposite their names:

A. J. Robinson, for cash previously paid	$200 00
C. E. Carpenter, for right of way previously conveyed to applicant	100 00
W. D. Griffiths, for right of way previously conveyed to applicant	200 00
L. L. Dennett, in payment of applicant's indebtedness to him	1,000 00
Ora R. Bates, for cash previously paid to applicant	100 00
Clarence E. and Florence L. Bates, for money previously paid to applicant	100 00
T. K. Beard, in part payment of indebtedness due him by applicant	12,700 00
Total	$14,400 00

(2) The applicant herein shall report to this Commission when the stock herein authorized to be issued shall have been issued, and shall report also that any stock previously issued for the purposes covered by this authorization has been canceled.

(3) The authority herein given is given as to such stock as shall have been issued on or before September 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of July, 1914.

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DECISION No. 1699.

IN THE MATTER OF THE APPLICATION OF T. H. DASSEL, TRANSACTING A TELEPHONE BUSINESS UNDER THE NAME AND STYLE OF MORGAN HILL TELEPHONE COMPANY, FOR AN ORDER ESTABLISHING A SCHEDULE OF TELEPHONE RATES.

Application No. 1132.

Decided July 28, 1914.

Applicant contending that the present rates in effect for telephone service at Morgan Hill are unjust, in that they do not permit of a return sufficient to meet operating expenses and interest upon capital invested, petitions the Commission to establish rates permitting of a reasonable return.

Held, That the present rates of applicant are not sufficiently remunerative. Tentative schedules established including a rate for wall phones of $2.50 for business and $2.00 for residence, one-party lines; $2.00 for business and $1.75 for residences, two-party lines; and $1.50 for residences, four-party lines. Rates effective August 1, 1914.

T. H. Dassel, in propria persona.

A. M. Kelly, representing certain farmer line patrons, Prostestants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is a matter in which T. H. Dassel, who owns a telephone system serving the town of Morgan Hill, Santa Clara County, and vicinity, represents that the rates now in effect for telephone service over his system do not afford a reasonable return upon his investment, and in which the Railroad Commission is petitioned to establish such rates as will yield a reasonable return.

At the time of hearing this application there were 156 patrons connected with the Morgan Hill exchange. Of this number 56 were exchange subscribers within the town, 93 were farmers owning their own lines and telephones, and 7 were farmers owning their own lines but using telephones furnished by the applicant.

Service and rates at this exchange have, as in other cases, been divided into two general classes, viz: exchange, including all service to patrons located within the town; and rural or farmer line, provided only to patrons located beyond the town limits. The rates heretofore in effect for these classes have been as follows:

For subscribers located within a distance of one half mile or less from the central exchange:

One-party business, wall set	$2 00 per month
Two-party business, wall set	1 50 per month
One-party residence, wall set	1 50 per month
Two-party residence, wall set	1 25 per month
Four-party residence, wall set	1 00 per month

Desk sets, 25 cents per month additional.

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For patrons located beyond one half mile from the central exchange and within the town limits, a charge of 50 cents per month in addition to these rates is made.

The rate to farmer line subscribers owning their own lines and telephones is $3.00 per year. To farmer line subscribers owning their lines, but using telephones furnished by the company, the rate is $6.00 per year.

The applicant has filed with the Commission his annual statement for 1913 showing expenses of $1,099.25 in excess of receipts. An examination of this statement, however, indicates that it does not correctly represent the operations of that year.

Under operating expenses $1,200.00 is charged to manager's salary and $360.00 to lineman's salary. The applicant personally acts as manager, and in addition to the services which he performs as manager, he also performs all of the services of lineman for which the statement charges this added cost of $360.00. This exchange, which now serves but 156 patrons, employs two operators at salaries aggregating $546.00 per year. With these operators in attendance, I seriously question whether in an exchange of this size the necessities of the business are sufficient to justify an expense of $1,200.00 for a manager even though he may serve in the dual capacity of manager and lineman. I will refer later to this salary, but manifestly there is no justification for charging this item of $360.00 to the expenses of operation unless it is deducted from whatever other salary it may be proper to allow for the services of the manager.

A further item of $41.90 is charged to operating expenses as pole contract rental. This is an amount which is charged the company for the use of certain foreign poles, but it is not an item properly chargeable to this account since the applicant in turn bills his patrons for the amount and is reimbursed by them.

Rent of office building is charged at $15.00 per month. Heretofore rented quarters have been used, and this is a proper charge for the year 1913, but the applicant has recently moved the office into a building which he owns. For the future an amount in proportion to the space occupied for purposes of the telephone business should be allowed as rent, or an amount should be allowed for interest, taxes, insurance, etc., in proportion to the space used for the purposes of this business. Approximately one fifth of the premises are so used, the remaining portion being used as living quarters by the applicant and his family. The total value of these premises is approximately $2,000.00 and a rental of $10.00 per month would appear to be a reasonable allowance for this item in lieu of taxes, insurance, and interest on the value of the property.

Taxes for the year 1913 were charged, amounting to $62.04, representing the amount actually paid to the state.

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The Morgan Hill telephone exchange and property was purchased on May 1, 1913, from G. K. Estes for $2,425.00. The transfer was authorized by an order of this Commission providing that the consideration of $2,425.00 should not be taken by the Commission or other public body as representing for rate fixing or other purposes the value of the property so transferred. When this transfer was made an inventory of the property was filed with the Commission which represents the value of the property at that time, exclusive of tools, material, and supplies on hand, as being $2,221.55. The valuation shown in this inventory has been carefully examined by the Commission's telephone expert, and it is found that the approximate present value of the property inventoried, figured at present average costs for labor and material, after deducting the value of portions of the plant since taken down and deducting also depreciation at 5½ per cent for the year which has intervened, no depreciation having been provided for, is $1,950.74. During the year since its purchase the applicant has added extensions to plant valued at $321.13. He has also purchased a franchise at an actual cost of $105.00, and has tools, material, and supplies on hand valued at $117.65. The total value of these items, $543.78, brings the total present value of the property up to $2,494.52. In his annual statement the applicant claims a valuation of $2,500.00, and since the result of the examination of the valuations shown in the inventory, plus improvements, is so close to the valuation shown in the annual statement, I am willing to accept the applicant's figures as being reasonable.

Referring now to the statement of income and expenses. Income for the year 1913 was,

From telephone rentals	$1,357 10
From long distance tolls	309 23
Non-operating revenues	46 02
Total	$1,712 35

Regarding operating expenses, reference has already been made to the item of $1,200.00, manager's salary. While it is very plain that if the applicant personally performs this service he is rightfully entitled to such salary as the service is worth, it will be noted that the amount which was charged to this item in 1913 represents 48 per cent of the total investment or 70 per cent of the gross receipts for that year. The applicant testified that, as nearly as can be estimated, no account having been heretofore kept of the time actually devoted to the work, it would cost approximately $30.00 per month if it were necessary to employ outside linemen. For the time which it is actually necessary to devote exclusively to the management of this business and allowing sufficient in addition to cover what it would cost to employ outside linemen, I am of the opinion that a salary of $70.00 per month is sufficiently

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liberal and is not an unreasonable burden to place upon operating expenses. On this basis, and allowing other legitimate items of operating expenses on the basis previously referred to, expenses for 1913 would appear as follows:

Salaries and wages:	
Manager	$840 00
Operators	546 00
Rent	180 00
Water and fuel	19 00
Stationery	10 00
Directory expense	6 00
Maintenance	46 36
Taxes	62 04
Total	$1,709 40

With gross receipts amounting to $1,712.35 and expenses amounting to $1,709.40, the net revenue would be $3.05, but it will be noted that nothing was set aside during the year to take care of depreciation.

From this showing it is very apparent that the present rates do not yield this applicant a reasonable return upon his investment, nor do they enable him to set aside any amount whatever to provide for future depreciation of the property, and that he is, therefore, entitled to better rates.

The rates at present in effect at Morgan Hill, for other than farmer line service, are somewhat lower than the rates generally in effect by other telephone companies for similar service under similar circumstances at other points, and since there is no adequate reason appearing why the applicant should not be allowed rates to compare with those in effect for similar service in other cases, I am willing to recommend that he be authorized to charge his patrons for telephone service of the classes specified rates as follows, which are the same as rates in effect for similar service at other points:

	Business		Residence	
	Wall	Desk	Wall	Desk
One-party	$2 50	$2 75	$2 00	$2 25
Two-party	2 00	2 25	1 75	2 00
Four-party			1 50	1 75

It will be noted by referring to the schedule of rates at present in effect that patrons located beyond one half mile from the central exchange but within the town limits are required to pay rates 50 cents per month higher than those who are located within one half mile of the central exchange. The town limits at present extend approximately one half mile beyond the present exchange radius, or approximately one mile from the central exchange. Under the present schedule, patrons located outside the town limits are served by farmer lines, they

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building their own lines up to the town limits, the telephone company providing the lines from that point in to the exchange. As a result of this arrangement, only those located beyond the town limits have access to farmer line service at farmer line rates and those located within the town limits but beyond the exchange radius of one half mile from the central exchange must take exchange service at rates which are 50 cents per month higher than those in effect within the half mile radius for the same classes of service.

It appears also that there is discrimination practiced, but for this the applicant is not responsible, due to the fact that at some previous time prior to the present arrangement becoming effective, the present arrangement being in force when the applicant acquired ownership of the exchange, certain patrons located within the town limits but beyond the one half mile radius were allowed and are still paying farmer line rates. I do not believe that the Commission can justly deny this preferential rate to those to whom it has previously been allowed, since they have an investment represented in lines and telephones, unless the applicant can arrange to reimburse them for the amount of their investment, and I am of the opinion that an order of the Commission at this time with reference to this feature is unnecessary. However, with reference to the payment of varying rates for similar service in different portions of the town, this inequality may be eliminated by extending the exchange radius to one mile from the central exchange, thereby extending similar rates for similar service to all within the mile radius, and as this change has been suggested and agreed to by the applicant, I shall so recommend.

With reference, however, to the farmer line rate, the rates for this class of service at other exchanges of this class and size are quite generally the same as those now in effect at Morgan Hill. This Commission has not yet determined upon reasonable rates for farmer line service, and since other matters now formally before it, and other matters to be presented, will in all probability result in findings which may be made the basis of general application throughout the state, I am of the opinion that the determination of reasonable and just farmer line rates for subscribers of this exchange should for the present be deferred. I shall accordingly recommend that, with the exception of the changes discussed in the foregoing, the present rates shall continue with the understanding that this applicant may, after subsequent findings by the Commission with respect to rates for exchange and rural service, make application for such further revision of rates in addition to the changes herein recommended as may be proper in the premises.

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The applicant's system is connected with the lines of The Pacific Telephone and Telegraph Company for long distance toll service to and from points beyond Morgan Hill. Through this interchange of service, the applicant receives certain commissions on the amount of toll charges collected for The Pacific Company, and at the request of the Commission that company has presented a statement showing the amount of commissions paid the applicant between January 1, 1913, and June 1, 1914. During the last twelve months of that period the applicant was paid $321.63 for handling this business.

Assuming that there will be no decrease in the number of patrons and no changes in the classes of service after rates are changed, the classification of subscribers and the revenue to be derived from monthly rates during the next year according to the present classification of subscribers would appear as follows:

3 one-party business stations, desk set, at $2.75 month	$8 25
2 two-party business stations, desk set, at $2.25 month	4 50
21 two-party business stations, wall set, at $2.00 month	42 00
5 one-party residence stations, wall set, at $2.00 month	10 00
3 two-party residence stations, wall set, at $1.75 month	5 25
22 four-party residence stations, wall set, at $1.50 month	33 00
1 business extension station, at $1.00 month	1 00
2 extension bells, at 25 cents month	50
Total per month	$104 50
Total per year	$1,254 00
93 farmer line stations, at $3.00 per year	279 00
7 farmer line stations, at $6.00 per year	42 00
Total per year	$1,575 00

Taking the amount of commissions on tolls paid during the last year as a basis for estimating the probable revenue from this source for the next year, the total yearly income under this classification, exclusive of non-operating revenues, would be as follows:

Rental revenue	$1,575 00
Toll revenue	321 63
Total	$1,896 63

The applicant estimates that directory and maintenance expense for the next year will be greater than those costs were during the last year, but as a final determination of a reasonable schedule of rates as a whole can not be reached at this time for reasons already referred to, and as this expense for any future period can at best only be estimated, I do not consider this matter of present importance.

Figuring the expenses of operating on the basis of the previous year as above modified and allowing 5½ per cent on a valuation of $2,500.00

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for depreciation, operating expenses for the next year would appear as follows:

Manager's and lineman's salary	$840 00
Operators' salaries	546 00
Rent	120 00
Water, lights and fuel	19 00
Stationery	10 00
Directory expense	6 00
Maintenance	46 36
Depreciation	137 50
Taxes	62 04
Total operating expenses	$1,786 90

On this basis net revenues for the year will be $109.73, representing a net return of 4.4 per cent on a valuation of $2,500.00.

In recommending a schedule of rates on the basis here outlined, I do not wish to be understood as holding that rates which will yield a return of 4.4 per cent on the amount invested are just and reasonable rates, but in view of this situation as it has been presented and in view of the issues involved which can not be decided on the merits of this case, I feel that I have gone as far as I can reasonably go until those issues can be determined.

The following order is recommended:

ORDER.

Application having been made to this Commission by T. H. Dassel, owning and operating a telephone system as a public utility in the town of Morgan Hill and vicinity, Santa Clara County, under the name and style of Morgan Hill Telephone Company, for an order establishing rates for telephone service, and a hearing having been held thereon, and it appearing to the Commission that the rates at present charged patrons of this system for telephone service do not afford the applicant herein a reasonable return upon the capital invested, and no adequate reason appearing, other than as set forth in the opinion accompanying this order, why the applicant should not be permitted to increase said rates,

It is hereby ordered that the applicant, T. H. Dassel, be and he hereby is authorized to publish and file with this Commission, and to put into effect on or before the first day of August, 1914, the following monthly rates, which are found to be just and reasonable rates for the classes specified, viz:

	Business		Residence	
	Wall	Desk	Wall	Desk
One-party	$2 50	$2 75	$2 00	$2 25
Two-party	2 00	2 25	1 75	2 00
Four-party			1 50	1 75

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Provided that the present exchange radius of one half (½) mile from the central exchange shall be extended to include a radius of one (1) mile in a straight line from the central exchange; and provided, further, that with the exception of so-called farmer line subscribers who are located within the one mile radius hereinabove referred to, who are at present receiving farmer line service at present farmer line rates, the schedule of rates hereinabove provided for shall apply to all present and future subscribers located within said one mile radius of the central exchange; and provided, further, that all other present rates shall remain as at present pending the further order of this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of July, 1914.

DECISION No. 1700.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE OF THE FACE VALUE OF TEN THOUSAND DOLLARS.

Application No. 1250.

Decided August 1, 1914.

Applicant authorized to execute its promissory note in the sum of $10,000.00 bearing interest at 6 per cent in renewal of a note of a like amount now outstanding.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for authority to issue a promissory note of the face value of $10,000.00 payable to Security Trust Company of Bakersfield, successor to Bank of Bakersfield, to refund a one-day note in the same amount dated January 25, 1912, payable to Bank of Bakersfield.

The proceeds of the note of January 25, 1912, were apparently used for purposes properly capitalizable. I recommend that the application be granted and submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to the Railroad Commission for an order authorizing the issue of a promissory note in the face amount of $10,000.00, bearing interest at the rate of 6 per cent per annum, payable to the order of Security Trust Company of Bakersfield, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which the

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proceeds of said note are to be used are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Joaquin Light and Power Corporation be and the same is hereby authorized to issue its promissory note in the face amount of $10,000.00, bearing interest at the rate of 6 per cent per annum, payable to Security Trust Company of Bakersfield, on the following conditions and not otherwise, to wit:

1. San Joaquin Light and Power Corporation shall issue said promissory note at its full face value.

2. San Joaquin Light and Power Corporation shall use the proceeds of said note only for the purpose of refunding its promissory note dated January 25, 1912, for $10,000.00, payable to the order of the Bank of Bakersfield.

3. San Joaquin Light and Power Corporation may issue said note and such renewals thereof as it deems advisable, without further order from the Railroad Commission, provided that the aggregate of the terms of said note or notes shall not exceed one year from the date of this order.

4. San Joaquin Light and Power Corporation shall report to the Railroad Commission, within ten days after the date of the issue, the fact of the issue, the terms and the disposition of the proceeds of the note hereby authorized.

5. This order shall not become effective until applicant has paid the fee specified in section 57, as amended, of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of August, 1914.

DECISION NO. 1701.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF SIX HUNDRED THIRTY-NINE THOUSAND DOLLARS.

Application No. 590.

Decided August 1, 1914.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

TENTH SUPPLEMENTAL OPINION.

Heretofore on March 30, 1914, this Commission made its ninth supplemental order in the above entitled proceedings, authorizing San Diego

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Consolidated Gas and Electric Company, among other matters, to apply the proceeds from the sale of bonds of the face value of $23,000.00 for the purpose of discharging a refunding indebtedness incurred for capital expenditures made during the month of February, 1914, as those expenditures are set out in the opinion which precedes the order.

It now appears that the capital expenditures made by San Diego Consolidated Gas and Electric Company during the month of February, 1914, were used to withdraw moneys deposited with the trustee in the depreciation and renewal fund, and that consequently there was no construction account for February against which said $23,000.00 face value of bonds could be issued. This arrangement with the trustee was consummated subsequent to the petition and said order of March 30, 1914.

Applicant now asks this Commission to amend its said order so as to permit applicant to issue said bonds of the face value of $23,000.00 against construction expenditures incurred by applicant subsequent to May 31, 1914, and prior to November 1, 1914. Bearing in mind the fact that under applicant's deed of trust it can secure from the trustee bonds of a face value not to exceed 75 per cent of expenditures for proper construction purposes, I consider the request to be reasonable and recommend that it be granted.

I submit herewith the following form of order:

TENTH SUPPLEMENTAL ORDER.

It is hereby ordered that paragraphs 2 (*a*) and 5 in this Commission's order of March 30, 1914, in the above entitled proceeding be, and the same are, hereby altered to read as follows:

> 2. San Diego Consolidated Gas and Electric Company shall apply the proceeds from the sale of said bonds as follows:
>
> (*a*) The proceeds from the sale of said bonds of the face value of twenty-three thousand dollars ($23,000.00) shall be applied only for the purpose of discharging and refunding not to exceed seventy-five per cent (75%) of indebtedness incurred or to be incurred between May 31, 1914, and November 1, 1914, for the general construction items which are specifically set forth in this Commission's order dated June 30, 1913, in the above entitled proceeding.
>
> 5. The authority hereby given to issue all the bonds herein authorized, including said bonds of the face value of twenty-three thousand dollars ($23,000.00) shall apply only to bonds issued by said company on or before the first day of November, 1914.

In all other respects said order of March 30, 1914, shall remain in full force and effect.

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The foregoing tenth supplemental opinion and order are hereby approved and ordered filed as the tenth supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of August, 1914.

DECISION No. 1702.

CITY OF LOS ANGELES

vs.

SOUTHERN CALIFORNIA GAS COMPANY, LOS ANGELES GAS AND ELECTRIC CORPORATION, SOUTHERN CALIFORNIA EDISON COMPANY, AND ECONOMIC GAS COMPANY.

Case No. 594.

Decided August 1, 1914.

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

Southern California Gas Company having filed its petition for rehearing in the above entitled proceeding, and the Railroad Commission finding that there is no merit in any of its grounds urged for rehearing,

It is hereby ordered that said petition for rehearing be, and the same is, hereby denied.

Dated at San Francisco, California, this 1st day of August, 1914.

DECISION No. 1703.

IN THE MATTER OF THE STOPPAGE OF THROUGH CARS OF PACIFIC ELECTRIC RAILWAY COMPANY AT LA SENDA, LOS ANGELES COUNTY, CALIFORNIA.

Case No. 587.

Decided August 1, 1914.

Upon receipt of a petition signed by numerous residence districts in and adjacent to South Pasadena, complaining of the service given that district by the Pacific Electric Railway the Commission made a thorough examination of the present service, and though owing to constantly changing conditions, no order is made at the present directing respondent to operate additional cars at any particular time, respondent directed to add such cars as may be necessary to properly handle the Oak Knoll traffic.

Ross T. Hickcox and *T. C. Gould*, for Alhambra Chamber of Commerce.

Charles C. Montgomery and *F. R. D. Moote*, for City of Sierra Madre.

C. L. Pike, for South Santa Anita Improvement Association.

Frank Karr, for Pacific Electric Railway Company.

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REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is a proceeding on the Commission's own initiative into the question whether the through cars of Pacific Electric Railway Company shall be required to stop at La Senda in South Pasadena. The hearing was instituted in response to largely signed petitions from residents of South Pasadena, Alhambra, and San Marino, asking that this Commission direct Pacific Electric Railway Company to stop all its through cars on signal at La Senda Station, located in the city of South Pasadena, at or near the intersection of Huntington Drive, Garfield avenue, and Wilson avenue.

The hearing in this matter was held in the city of South Pasadena June 9, 1914. Alhambra Chamber of Commerce and residents in the vicinity of La Senda Station appeared in support of the request contained in the petitions and the city of Sierra Madre, the South Santa Anita Improvement Association, and Pacific Electric Railway Company appeared in opposition thereto.

Pacific Electric Railway Company has four tracks at La Senda Station. The outer two tracks are used by what are known as the El Molino cars, which do a local business between Los Angeles and El Molino, and the two inner tracks are used by the Oak Knoll cars, the Monrovia-Glendora cars and the Sierra Madre cars. At the present time the El Molino cars and the Oak Knoll cars stop at La Senda, but the Monrovia-Glendora cars and the Sierra Madre cars, running to and from communities located beyond La Senda, do not stop at this point. The El Molino cars and the Oak Knoll cars give a fifteen-minute service during the heavy morning and evening hours, reducing to a thirty-minute service on the Oak Knoll line and a twenty-minute service on the El Molino line during other portions of the day. The Pacific Electric Railway Company's time-table shows forty-one trains each way daily on the Oak Knoll line, and fifty-six trains daily each way on the El Molino line.

While petitioners at first desired that all so-called through trains coming to and from Monrovia, Glendora, and Sierra Madre should stop at La Senda, it developed at the hearing that their real complaint was the necessity of standing, even on the Oak Knoll cars, during the early morning and evening hours.

I find that it would not be reasonable to direct Pacific Electric Railway Company to stop its Monrovia-Glendora and its Sierra Madre cars, these being through cars, and there being difficulty, even at present, to maintain their schedule to the more distant points located east of La Senda Station.

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The brief filed on behalf of Alhambra Chamber of Commerce concedes this point. It is suggested in this brief, in accordance with the testimony at the hearing, that the greater portion of the objection of petitioners would be obviated if this Commission should direct Pacific Electric Railway Company to operate two-car trains instead of one-car trains over the Oak Knoll line during the morning and evening hours during which the traffic is most heavy. It is pointed out in the brief that this solution would remove a large part of the complaints made by Sierra Madre and other cities east of La Senda, for the reason that two-car trains operating on the Oak Knoll line would, to some extent, take from the Sierra Madre and the Monrovia-Glendora cars a considerable portion of the pressure of the traffic to and from Fletcher-avenue Station, located west from La Senda.

Subsequent to the hearing in this matter, Pacific Electric Railway Company has placed an additional car on Oak Knoll trains Nos. 355 and 357, leaving Los Angeles at 5.00 p. m. and 5.20 p. m., respectively.

Because of the varying traffic conditions in different seasons of the year, it is manifestly not advisable to lay down any ironclad rules as to the particular Oak Knoll trains which should be provided with an additional car. I am of the opinion that it will be sufficient to direct Pacific Electric Railway Company to furnish adequate accommodations to take care of the La Senda traffic with a view to giving passengers, so far as can reasonably be done, a seat, and to put on such additional cars on its Oak Knoll trains as may from time to time prove necessary.

The check of passengers supplied by Pacific Electric Railway Company for Oak Knoll and El Molino cars, inbound and outbound, on May 25th, May 26th, May 27th, May 28th, May 29th and May 30th, would seem to indicate that Oak Knoll trains, outbound from Los Angeles to Pasadena, and being numbered 355, 357, 359 and 363, and inbound Oak Knoll trains numbered 306, 308, 310, 312 and 314, are at times very crowded. While not directing Pacific Electric Railway Company with reference to the particular trains on which cars shall be added, I desire to draw their attention to this congested condition. The order in this case will provide that Pacific Electric Railway Company shall place additional cars on its Oak Knoll trains to the extent necessary to take care of the La Senda traffic and to give reasonable seating accommodations. A rigid order specifying particular trains and leaving out others would lead to endless complications as the seasons of the year and the traffic change.

I submit herewith the following form of order:

ORDER.

The Railroad Commission having on its own initiative instituted an investigation to determine whether the through cars of Pacific Electric Railway Company should be required to stop at La Senda Station in

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South Pasadena, and a public hearing having been held in said matter and the Railroad Commission being fully advised in the premises,

It is hereby ordered that Pacific Electric Railway Company be and the same is hereby directed to add cars as they may be necessary, to its Oak Knoll trains, particularly in the morning and evening hours, so as to supply reasonable seating accommodations for the La Senda traffic. The attention of the company is directed to the advisability of retaining the additional cars which have been placed on Oak Knoll trains Nos. 355 and 357, and the company is directed to investigate the feasibility of placing additional cars on the other trains referred to in the opinion herein and to add such cars wherever found necessary.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of August, 1914.

DECISION NO. 1704.

IN THE MATTER OF THE APPLICATION OF IMPERIAL GRAIN AND WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK OF THE PAR VALUE OF FORTY-FIVE THOUSAND SIX HUNDRED DOLLARS.

Application No. 1200.

Decided August 1, 1914.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

SUPPLEMENTAL OPINION.

Subsequent to this Commission's Decision No. 1666, dated July 13, 1914, in the above entitled proceeding, applicant has written to the Commission drawing attention to the fact that the testimony introduced at the hearing is erroneous in several respects. It now appears that the number of shares of stock to be issued by Imperial Grain and Warehouse Company to Newmark Grain Company on account of stock heretofore illegally issued, is 33 instead of 37, and that the money due from Imperial Grain and Warehouse Company to Newmark Grain Company is only $5,693.26 instead of being $8,993.26. Accordingly only 57 shares should be issued on this account instead of ninety.

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I accordingly submit the following supplemental order:

SUPPLEMENTAL ORDER.

It is hereby ordered that the order heretofore issued on July 13, 1914, in the above entitled proceeding be, and the same is, hereby amended in the third and fourth paragraphs thereof, so as to read as follows:

(1) Imperial Grain and Warehouse Company may issue 33 of said shares to Newmark Grain Company in lieu of the same number heretofore illegally issued, upon the return and cancellation of the certificate or certificates for the shares so illegally issued.

(2) Imperial Grain and Warehouse Company may issue 57 of said shares to Newmark Grain Company in payment of indebtedness of $5,693.26 now owing from Imperial Grain and Warehouse Company to Newmark Grain Company.

In all other respects said order shall remain in full force and effect.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of August, 1914.

DECISION NO. 1705.

JOSEPH MANOR

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 619.

Decided August 1, 1914.

Complainant, operating stages in Colusa County, alleges that defendant cancelled the through route and joint rates formerly in effect over the lines of Southern Pacific Company and the stages operated by complainant.

Held. In view of the fact that defendant, subsequent to the filing of the complaint, restored the joint rates previously in effect, complaint dismissed.

Arthur G. Huston, for Complainant.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

Complainant in this case owns and operates a stage line between the town of Williams and Wilbur Springs and Jones Springs, all in Colusa County. He charges the defendant with discrimination in that the defendant has cancelled the arrangement for through route and joint rates formerly in effect with Manor, and has established a through route and joint rates between the same points with a new stage line known as the Gibson Wilbur Springs Company.

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The hearing in this case was held in San Francisco July 16, 1914. Subsequent to the hearing the Southern Pacific Company voluntarily restored the through route and joint rates with Manor's line. The complaint should accordingly be dismissed and it becomes unnecessary to pass on the applicability of the various sections of the Public Utilities Act on which complainant relied.

The reason given by Southern Pacific Company for the cancellation of the through route and joint rates with Manor's line, was that Manor was discourteous to his passengers and was not a satisfactory person for the operation of a stage line in connection with Southern Pacific Company's lines. The defendant did not go into this matter at the hearing. I feel it only proper to say, however, that if at any time either of the two stage lines operating between these points should fail to treat with the proper respect and consideration passengers coming over the lines of Southern Pacific Company, this Commission will entertain an application from the Southern Pacific Company for discontinuance of the through route and joint rates with such party. The convenience of the passengers is the matter in which both this Commission and the Southern Pacific Company are most interested, and both this Commission and the Southern Pacific Company have a right to demand that stage lines having through routes with the Southern Pacific Company shall treat their customers with all courtesy, thoughtfulness, and consideration.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled case, and defendant having granted subsequent to the hearing the relief asked by complainant,

It is hereby ordered that said complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of August, 1914.

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DECISION NO. 1706.

WILMINGTON TRANSPORTATION COMPANY
vs.
SOUTHERN PACIFIC COMPANY.

Case No. 622.

Decided August 3, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Wilmington Transportation Company having, on the 28th day of July, 1914, made written request to the Commission that the above entitled action be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 3d day of August, 1914.

Decisions Nos. 1707 and 1708, grade crossings; not printed. See end of volume.

DECISION NO. 1709.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AUTHORITY TO ISSUE SEVEN HUNDRED FIFTY THOUSAND DOLLARS OF PREFERRED STOCK.

Application No. 568.

Decided August 5, 1914.

Applicant authorized to use the sum of $165,033.19 from the proceeds of stock heretofore authorized for the purposes of reimbursing its treasury for money previously expended for purposes properly chargeable to capital account.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

SUPPLEMENTAL ORDER.

Authority having heretofore been granted by this Commission to Southern California Gas Company to issue $750,000.00 of its preferred stock at $80.00 per share, and the purposes for which said stock may be issued having been set forth in orders by this Commission, and Southern California Gas Company now desiring to use a portion of the proceeds from the sale of said $750,000.00 of preferred stock in the sum of $165,033.19 for the purpose of reimbursing its treasury for capital expenditures heretofore made in accordance with its Exhibits "G" and "H," and it appearing that such capital expenditures were properly made in connection with the construction of applicant's plant and system,

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It is hereby ordered that Southern California Gas Company be given authority, and it is hereby given authority, to use the sum of $165,033.19, derived from the sale of its preferred stock heretofore authorized by this Commission for the purpose of reimbursing its treasury for expenditures in accordance with its Exhibits "G" and "H," filed in connection with the application herein.

The previous orders issued by this Commission on the application herein are amended in so far as may be necessary for the purposes of the present order.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of August, 1914.

DECISION NO. 1710.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND AUTHORITY TO EXERCISE RIGHTS AND PRIVILEGES UNDER THE FRANCHISE HERETOFORE GRANTED TO IT BY THE CITY OF RIALTO.

Application No. 1252.

Decided August 5, 1914.

Applicant granted a certificate of public convenience and necessity authorizing the exercise of franchise rights granted by the city of Rialto, permitting applicant to construct a gas distributing system in said city.

Alex Macdonald, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Southern California Gas Company for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted by the city of Rialto, in the county of San Bernardino, State of California.

By ordinance No. 14, adopted and approved the 16th day of April, 1912, the board of trustees of the city of Rialto granted applicant a franchise to construct, and for a period of fifty years maintain, a system of gas pipes and pipe lines under and along the streets and thoroughfares in the city of Rialto.

There is no other person or corporation furnishing gas to this community at this time, and the service of gas to the citizens of Rialto is and will be of undoubted benefit. The franchise was granted under the terms of the Broughton Act, and contains the usual provisions.

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I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California for a certificate that public convenience and necessity require the exercise of rights and privileges by Southern California Gas Company under a franchise granted by the city of Rialto, and a public hearing having been had, and it appearing to the Commission that this application should be granted,

It is hereby ordered and declared, by the Railroad Commission of the State of California, that public convenience and necessity require and will require the exercise by Southern California Gas Company of rights and privileges under that certain franchise granted to said company by Ordinance No. 14, adopted and approved the 16th day of April, 1912, by the board of trustees of the city of Rialto, in the county of San Bernardino, State of California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of August, 1914.

DECISION NO. 1711.

IN THE MATTER OF THE APPLICATION OF THE MONTECITO RAILROAD COMPANY FOR ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 1236.

Decided August 5, 1914.

Applicant authorized to issue 50,000 shares of its capital stock of the par value of $1.00 per share, to sell same so as to net not less than $45,000.00, proceeds to be used in the construction of an electric railway in the Montecito Hills District of the city of Los Angeles.

T. K. Hulme and *A. W. Eckman,* for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Montecito Railroad Company for an order authorizing the issue of $50,000.00 par value of its common capital stock.

Applicant was incorporated in May, 1914, with a capital stock of 50,000 shares of a par value of $1.00 each, the principal purpose of

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this corporation being to build and operate a street railroad 2.4 miles to serve the people residing and to reside upon a tract of land in the city of Los Angeles, which has been subdivided into building lots. This tract is owned or controlled by the Mutual Home Building Corporation, which proposes to take the stock asked to be authorized.

One terminus of this road will be at the line of the Los Angeles Railway Corporation, thus enabling passengers to make a journey from the city of Los Angeles by changing from one street car system to the other.

The evidence shows that applicant has been donated a right of way 20 feet in width and approximately 2¼ miles in length, which makes approximately 5.82 acres of land, estimated to be worth $15,000.00, and this is now owned by applicant free of incumbrance.

We are asked to permit the issuance and sale of this stock at a discount of 10 per cent, or a net amount to the company of $45,000.00, all of which is to be used for the construction and maintenance of the road.

It is proposed to construct this road of such a standard as to permit of its being made a part of the system now operated by the Los Angeles Railway Corporation.

The engineers of this Commission have checked the estimates submitted and find them reasonable.

I recommend that the application be granted, and submit herewith the following form or order:

ORDER.

Application having been made by Montecito Railroad Company for an order authorizing the issue of 50,000 shares of its capital stock of the par value of $1.00 each, and a public hearing having been duly held and it appearing to the Commission that the money to be secured by the issue of said stock is necessary and reasonably required by said company for the acquisition of property and the construction, completion, and maintenance of service of its street railroad system, and that the purposes for which the proceeds of the sale of said stock are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered, by the Railroad Commission of the State of California, that Montecito Railroad Company is hereby authorized to issue 50,000 shares of its capital stock of a par value of $1.00 each, upon the following terms and conditions, and not otherwise:

1. Montecito Railroad Company shall sell said stock so as to net said company not less than $45,000.00.

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2. The proceeds from the sale of said stock shall be used for the following purposes only:

For the purchase of property	$12,000 00
For construction of roadbed and track	16,622 82
For overhead work	5,977 18
For cars, car barn, substation and tools	9,700 00
For maintaining first operations of railroad	700 00
Total	$45,000 00

For a more detailed estimate of the cost of construction of said road, reference is hereby made to Exhibit "A," on file with the application herein.

3. Said company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of said stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, in accordance with the Commission's General Order No. 24, stating the sale or disposition of such stock during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom, and the use and application of such moneys.

4. The authority hereby given to issue such stock shall apply only to stock issued by said company on or before the first day of January, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of August, 1914.

Decision No. 1712.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF CERTAIN RIGHTS AND PRIVILEGES UNDER FRANCHISE RIGHTS.

Application No. 1247.

Decided August 5, 1914.

Applicant granted a certificate of public convenience and necessity authorizing the exercise of rights granted under a franchise secured from the counties of San Bernardino and Orange, permitting extensions of applicant's present electrical distribution system in contiguous territory not at present receiving electric service.

H. H. Trowbridge, for Applicant.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Southern California Edison Company for a certificate that public convenience and necessity require the exercise of rights and privileges by said company under franchises granted by the counties of San Bernardino and Orange.

Applicant maintains and operates an electric distributing system in both of these counties, and from time to time makes extensions of its system to meet the demands of new consumers. These extensions are made in the public highways and streets of these counties and these franchises were obtained for the purpose of permitting the making of such extensions. By the terms of these franchises applicant is permitted to construct its electrical system on all of the public highways, streets, alleys, and public places outside of the limits of any existing incorporated city. It is not proposed to make any of these extensions into territory now served by any other electrical corporation, but only to enter territory contiguous to its present system.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Application having been made by Southern California Edison Company for a certificate that public convenience and necessity require the exercise by it of rights and privileges under a franchise granted said company by Ordinance No. 158, duly adopted by the board of supervisors of San Bernardino County, State of California, on the 18th day of May, 1914, and under a franchise granted to it by Ordinance No. 116, duly adopted by the board of supervisors of the county of Orange, on the 16th day of June, 1914, and a public hearing having been held, and it appearing to the Commission that this application should be granted,

It is hereby ordered and declared, by the Railroad Commission of the State of California, that public convenience and necessity require, and will require, the exercise of rights and privileges by Southern California Edison Company under a franchise granted said company by Ordinance No. 158, duly adopted by the board of supervisors of the county of San Bernardino, State of California, on the 18th day of May, 1914, and that public convenience and necessity require, and will require, the exercise of rights and privileges by Southern California Edison Company under a franchise granted said company by Ordinance No. 116, duly adopted by the board of supervisors of the county of Orange on the 16th of June, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of August, 1914.

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DECISION NO. 1713.

IN THE MATTER OF THE APPLICATION OF ROSEVILLE TELEPHONE COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1248.

Decided August 5, 1914.

Applicant authorized to issue 70 shares of stock of the par value of $10.00 per share, to be sold at not less than par, proceeds to be used in the payment of bills incurred for construction purposes since April 1, 1914. Applicant also authorized to issue 30 shares of stock of the par value of $10.00, to be sold at par for proposed construction purposes after an estimate of such proposed expenditures has been filed and approved by the Commission.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In its application filed before this Commission on July 13, 1914, Roseville Telephone Company asked for authority to issue 50 shares of its capital stock of the par value of $10.00 per share to pay bills for labor and materials used for construction purposes since April 1, 1914. The details of this construction are set forth in exhibits attached to the application.

At the hearing in this matter held on August 3, 1914, the applicant asked that its application be amended, and now asks for authority to issue 100 shares of its capital stock of the par value of $10.00 per share for the purpose of paying for labor and material used for additions and betterments to its plant in the sum of $709.73, and for other additions and betterments to be made in the sum of approximately $300.00. The details covering the $700.00 of additions and betterments has been filed with the application herein. The applicant proposes to issue this stock at par. The expenditures have been made for proper capital purposes and I, therefore, recommend that the application be granted.

I submit the following form of order:

ORDER.

Roseville Telephone Company having applied to this Commission for authority to issue 100 shares of its capital stock of the par value of $10.00 per share for the purpose of paying for material and labor for additions and betterments in the sum of $700.00, and for additions and betterments proposed to be made in the sum of $300.00; and a hearing having been held, and it appearing that the purposes for which applicant proposes to issue such stock are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Roseville Telephone Company be given authority and it is hereby given authority to issue 100 shares of

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its capital stock of the par value of $10.00 per share for the purposes aforesaid.

The application is granted upon the following conditions and not otherwise:

(1) The applicant may at this time issue 70 shares of the par value of $10.00 per share for the purposes of paying for labor and materials for additions and betterments, in accordance with exhibits filed in connection with the application herein.

(2) The applicant shall issue the remaining 30 shares of stock herein authorized only after it shall have filed with this Commission a statement showing in detail the additions and betterments for which the money received from the sale of said 30 shares of stock will be used.

(3) The applicant shall realize the par value thereof for all stock authorized under this order.

(4) Roseville Telephone Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted shall apply to such stock as shall be issued on or before December 31, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of August, 1914.

DECISION NO. 1714.

IN THE MATTER OF THE APPLICATION OF ROSEVILLE HOME TELEPHONE COMPANY TO SELL ITS TELEPHONE SYSTEM TO ROSEVILLE TELEPHONE COMPANY, AND OF ROSEVILLE TELEPHONE COMPANY TO ISSUE STOCK.

Application No. 917.

Decided August 5, 1914.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

SUPPLEMENTAL ORDER.

This Commission having, on May 7, 1914, issued its order in the above entitled matter authorizing Roseville Telephone Company to

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issue 1,100 shares of its capital stock to Roseville Home Telephone Company in exchange for its telephone system, and the applicant, Roseville Telephone Company, now desiring authority to issue said 1,100 shares of stock to the stockholders of Roseville Home Telephone Company,

It is hereby ordered that the order of this Commission upon Application No. 917, issued on May 7, 1914, be amended, and it is hereby amended to the end that Roseville Telephone Company may issue said 1,100 shares of stock heretofore authorized, either to Roseville Home Telephone Company or to the stockholders of Roseville Home Telephone Company, in proportion to the ownership of said stockholders in Roseville Home Telephone Company.

The authority herein granted shall apply to such stock as shall have been issued on or before October 1, 1914.

Roseville Telephone Company shall report to this Commission within thirty days after the stock herein authorized has been issued, stating the manner of such issue and reporting the names of the parties to whom said stock was issued and the number of shares issued to each.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of August, 1914.

DECISION NO. 1715.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME TELEPHONE COMPANY FOR AUTHORITY TO ISSUE BONDS AND NOTES.

Application No. 871.

Decided August 5, 1914.

Applicant authorized to issue a note or notes in the sum of $4,500.00 to be sold at face value, proceeds to be used to take up a note of a like amount now due, provided that before issuing said note applicant shall inform the proposed purchaser of the conditions reviewed in the original decision of the Commission in this application. Applicant also authorized to pledge bonds of the face value of $9,000.00 as security for the note herein authorized.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

SUPPLEMENTAL OPINION.

This is a supplemental application by Southwestern Home Telephone Company in which it asks authority to issue its notes in the sum of $4,500.00 for a period of not more than three years, at an interest rate not exceeding 8 per cent, and to pledge as security for said notes $9,000.00 of bonds, for the purpose of paying a note in the sum of

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$4,500.00 in favor of S. H. and F. J. Burchell which will mature on August 5, 1914.

In its opinion issued on February 24, 1914, on the application herein, the Commission recommended against granting authority to this company to take on new creditors at this time. If the parties now holding this note, however, are unwilling to extend, I recommend that the applicant be granted authority to issue new notes in the sum of $4,500.00 as requested, on the condition that the party or parties who may take the new notes shall have been informed of the findings of this commission upon the application herein as contained in its opinion of February 24, 1914.

As the applicant has already pledged $9,000.00 of its bonds as security for the payment of the note in the sum of $4,500.00, now held by S. H. and F. J. Burchell, these same bonds may be used as security for the notes which the applicant now proposes to issue.

I therefore recommend the application be granted and submit the following form of order:

ORDER.

Southwestern Home Telephone Company having applied to this Commission for authority to issue its promissory notes in the sum of $4,500.00 for a period not exceeding three years and at a rate of interest not exceeding 8 per cent, and for authority also to issue $9,000.00 of bonds as collateral security for said notes; and a hearing having been held, and it appearing that the purposes for which the applicant herein proposes to issue said notes and said bonds are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Southwestern Home Telephone Company be granted authority, and it is hereby granted authority, to issue its promissory notes in the sum of $4,500.00 and to pledge as collateral security therefor bonds to the amount of $9,000.00.

The authority herein given is given upon the following conditions and not otherwise:

(1) The applicant shall sell said notes so as to realize the face value thereof.

(2) The proceeds derived from the notes herein authorized to be issued shall be used to discharge a note in the sum of $4,500.00 now held by S. H. and F. J. Burchell.

(3) The bonds now pledged as collateral security for the note of $4,500.00, held by S. H. and F. J. Burchell, shall be used as collateral security for the notes herein authorized to be issued.

(4) The notes herein authorized to be issued shall be issued only after the applicant herein shall have filed a statement with the Commission stating the name of the party or parties to whom it proposes to issue the notes herein authorized, and after the applicant herein shall have

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made a showing satisfactory to this Commission that the party or parties who will take the notes herein authorized to be issued have been given a copy of this Commission's opinion of February 24, 1914, on the original application herein.

(5) The notes herein authorized to be issued shall be issued only after the party or parties to whom said notes are to be issued have filed a statement with this Commission stating that said party or parties will hold said notes until maturity.

(6) The authority herein given to issue said notes shall be exercised only after this Commission shall have issued a supplemental order stating that the conditions enumerated herein have been satisfactorily met by the applicant.

(7) The authority herein given shall apply to such note or notes as shall have been issued on or before September 1, 1914.

(8) The authority herein given is conditioned upon the payment by the applicant herein of the fee prescribed under the Public Utilities Act.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of August, 1914.

DECISION No. 1716.

IN THE MATTER OF THE APPLICATION OF HONEY LAKE VALLEY MUTUAL TELEPHONE ASSOCIATION FOR PERMISSION TO RAISE ITS RATES OR RENTAL CHARGES FOR TELEPHONE SERVICE.

Application No. 1177.

Decided August 5, 1914.

Applicant contending that its present rates are unjust, in that they are insufficient to permit of a return upon the fair value of its property, petitions for permission to place in effect a proposed schedule of rates, a considerable increase over the present schedule.

Held, That applicant is entitled to an increase in rates though not to the extent proposed. A monthly rate of $2.50 for business, $2.00 for stations connected with the Susanville exchange of the Nevada, California and Oregon Telephone Company, and $1.50 for residence subscribers tentatively established for a period of one year at which time if such schedule is shown to be insufficient, a readjustment may be requested. As proposed schedule will permit of a return of only 4 per cent on the value of applicant's property, its attention is called to certain unnecessary operating expenses, which, if eliminated, would considerably increase this percentage.

J. A. Pardee, of Pardee & Pardee, for Applicant.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The Honey Lake Valley Mutual Telephone Association, applicant in this proceeding, owns and operates a telephone system in Honey Lake Valley, Lassen County, California. The association was incorporated under the laws of this State during the year 1911 with an authorized capitalization of $10,000.00 as a local enterprise, and has placed all of its capital stock with local people. Its organizers estimated that the sale of this amount of stock would enable it to complete the construction of its plant, and that its revenues would be sufficient to earn a profit for the stockholders, but instead of realizing a profit it now finds it has suffered a loss aggregating $1,063.56 during the three years of its operation, due to the fact that the cost of installing the system was underestimated and that the amount of prospective revenue to be derived was overestimated. The Commission is, therefore, asked for permission to increase its rates, the applicant claiming that unless this permission is granted it will in a short time become bankrupt.

After the organization of this association it entered into a contract with the California Northern Telephone and Telegraph Company, since known as the Nevada, California and Oregon Telegraph and Telephone Company, which company operates a telephone exchange in the town of Susanville. Under the terms of this contract, those of the applicant's subscribers who are located within a distance of five miles of Susanville are connected direct with that exchange, the applicant paying to the Nevada, California and Oregon Company a rate of $1.50 semiannually for each subscriber so connected. The rates at present charged the patrons of this system for either business or residence telephones are as follows:

Subscribers connecting with the Susanville Exchange of the Nevada, California and Oregon Company and receiving unlimited exchange switching with the subscribers of that exchange	$1 50 per month
All other subscribers	1 00 per month

A charge is also made for switching to and from Susanville at a rate of 25 cents for three-minute conversations.

Permission is now sought to charge the following rates:

Business stations	$3 00 per month
Residence stations	2 00 per month
Stations connecting with the Susanville exchange	2 50 per month

According to the application, the total amount in cash realized from the sale of this stock was invested in establishing the system and it was later found, after this amount was expended, that additional funds would be necessary for the completion of the system. The applicant thereupon borrowed at various periods sums aggregating $10,000.00 from the president of the association, F. B. Hoffman, and on July 2,

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1913, under the authority of this Commission, issued its promissory note for this amount secured by a mortgage on the entire property of the association and payable in ten years with interest at 7 per cent payable semiannually.

This application was heard in the town of Janesville on July 8, 1914. At this hearing testimony was introduced representing the total value of the property to be $20,432.36 made up as follows:

Construction Exchange, pole lines and aerial wire		$11,828 38
Construction Exchange, substation apparatus		3,531 58
Construction Exchange, Central Office equipment		380 24
General equipment		423 31
		$16,163 51
Land and buildings	$1,480 51	
Organization	1,191 10	
Franchise	105 65	
Material and supplies	1,491 59	
		4,268 85
Total		$20,432 36

An itemized inventory of this property has been filed with the Commission which, according to the applicant's testimony, is based upon actual costs of labor and material as shown by original vouchers. Basing the prices of material upon these costs, which do not appear to be excessive, and basing the cost of construction upon the present average costs of labor, teaming, etc., it does not appear that the valuation claimed by the applicant is unreasonable.

It does appear, however, from the testimony that, although certain charges for depreciation appear on the books of the company, nothing whatever has been actually set aside for the purpose of creating a reserve for depreciation, nor has an allowance been made in this inventory for any depreciation in the value of the property. The applicant was accordingly directed to file a statement showing the total value of the plant installed as of the date operations commenced and the amount expended in plant additions each year subsequent to that date. This statement has been filed and, after deducting depreciation according to the age of the various portions of the plant, it appears that the present value is slightly in excess of $19,000.00. This result is based upon deductions for depreciation at 4 per cent on plant and 2 per cent on buildings and franchise. These figures are used for the reason that they are the figures appearing on the books of the company and, while the Commission in passing upon this matter withholds its approval of this charge to depreciation, I feel, since the plant is practically new, that for the purposes of this case these percentages may suffice. The applicant's annual statement for the year 1913, on file with the Commission, shows a net revenue of $131.92. Interest on the Hoffman note,

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however, has not been deducted from this net revenue. This interest at the close of the year amounts to $350.00.

The applicant has also submitted an itemized report to the Commission showing in detail the revenue and expenses included in the annual report referred to. After allowing for certain minor discrepancies, this report shows a deficit of $169.50, allowing the interest above referred to. If this statement is to be accepted as correct, and if it is to be admitted that this company's investment has been judiciously made, it is apparent that the present rates are not compensatory or reasonable rates and that they should be increased. As already indicated, the valuation claimed by the applicant does not appear to be excessive; however, I am not convinced that the investment has been judiciously made. The applicant now has a total of 186 stations in service and a total of 167⅝ circuit miles of wire, the original cost of which, together with other property, was $20,432.36. This represents an average of over nine tenths of a mile of circuit and an investment of over $109.00 for each station now in service and while the character of the plant which has been installed is such that the company has been enabled to render, and according to testimony of the company's patrons does render, a quality of service which is a credit to the company, I seriously question the wisdom of an investment of this amount in an enterprise of this character. Neither am I convinced that operating expenses have been judiciously managed or that in certain respects they have been properly reported as a basis for determining future expenses.

During the year 1913 outside labor has been employed and charged to maintenance of the system amounting to $98.24 in addition to portions of the salaries of regular company employees also charged to this account, although payments have been credited from outside sources exceeding the total amount which has been paid out for outside help. The report referred to shows that outside help has again been employed during the present year, but no credits whatever through payments from outside sources appear since the first of the year. Automobile hire has also been charged to this account amounting to $384.00, or an average of approximately $32.00 per month, and, while it would be necessary to employ teams if automobile hire were not allowed, I seriously question the necessity of automobile hire to the extent which has been charged in this report. Printing, postage, and stationery, which evidently is intended to include the cost of printing and distributing directories, does not appear to allow credit for amounts collected for advertising which evidently should be credited to this account. In the end the total operating expenses appear to have been credited with the various amounts collected from these sources, but proper methods of accounting do not appear to have been followed.

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For the year 1913 the total amount of salaries and wages, inclusive of the cost of outside labor, after deducting payments made to this account from outside sources, was $941.48. This amount includes the salary of the former manager, which salary, according to the applicant's testimony, included the salary of the operator. The present manager, who was not employed until April of the present year, receives a salary of $100.00 per month, and although his duties as manager should largely obviate the necessity of employing outside help, outside labor for plant work has again been employed and in addition the company is paying an operator a salary of $25.00 per month. During the first five months of the present year, the amount paid out for salaries was $679.34. Estimating salaries for the balance of the year on the basis of $100.00 per month salary for the manager, and $25.00 per month salary for an operator, and outside labor on the basis of the cost of this item for the first five months of the year, the total salary expense for 1914 would be $1,806.62 as against $941.48 for the previous year.

If, aside from an apparent over-investment in plant and property, this increase in salary expense were to be allowed, and if automobile hire to the extent which has been charged were allowed in addition, and if other operating expenses were to be allowed on the basis of the annual statement for the year 1913, rates sufficient to provide for interest and depreciation charges in addition to a return on the investment would be unreasonable. On the other hand, it is apparent, as claimed by the applicant, that the present rates are not compensatory rates.

Recognizing these facts and the fact that this applicant by reason of inexperience in the past in the matter of proper accounting and management is not now in a position to make a proper showing, a compromise as between the rates now in effect and the rates applied for by the applicant was suggested and agreed to by almost unanimous consent of the company's patrons and by the company's counsel on the basis of a charge of $1.50 per month for residence telephones, with the understanding that this rate be given a year's trial, and if, after the expiration of that period, the result may appear to justify a further modification, the matter may be again submitted to the Commission.

In addition to this rate for residence telephones, I am willing to recommend that the rate for business telephones be increased to $2.50 per month and the rate for telephones connected with the Susanville exchange to $2.00 per month. With these increases, the total revenue increase per year will be approximately $1,176.00, and on the basis of operating expenses which have been reported for the year 1913 will yield a return of approximately 4 per cent on the investment after

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paying interest and after providing for depreciation charges. A net earning of 4 per cent is not sufficient, but with proper deductions from the cost of operation, as suggested, it is apparent that a better showing may be made and it may be possible to show a reasonable earning on the investment.

In view of the foregoing, the following order is recommended:

ORDER.

Application having been made to this Commission by Honey Lake Valley Mutual Telephone Association, a corporation, owning and operating a telephone system as a public utility in Honey Lake Valley, Lassen County, California, for permission to raise its rates or rental charges for telephone service, and a public hearing having been held, and it appearing to the Commission that the rates at present charged its patrons for telephone service by this applicant are not just and reasonable rates; and it appearing further, as set forth in the opinion accompanying this order, that the rates which the applicant desires to charge its patrons, namely,

Business stations	$3 00 per month
Stations installed in a residence within 5 miles of the town of Susanville and connecting direct with the Susanville Exchange of the Nevada, California and Oregon Telegraph and Telephone Company	2 50 per month
Other residence stations	2 00 per month

are unjust and unreasonable rates,

It is hereby ordered that the application be and it hereby is denied;

And it is hereby further ordered that this applicant, Honey Lake Valley Mutual Telephone Association be and it hereby is authorized to publish, file, and put into effect for a period of one year from the effective date of this order, the following rates which are found to be just and reasonable rates:

Business stations	$2 50 per month
Stations located within 5 miles of the town of Susanville and connected direct with the Susanville Exchange of the Nevada, California and Oregon Telegraph and Telephone Company	2 00 per month
Other residence stations	1 50 per month

All other rates to remain as at present, provided that if, after the application of the rates herein authorized for the said period of one year from the effective date of this order, it may then appear that further increases may be justified, this applicant may make further application therefor to the Commission, and that otherwise rates herein authorized may continue in effect.

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This order to be and become effective from September 1, 1914, or from the first day of the month following the date on which the revised schedule of rates as herein provided may be filed with this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of August, 1914.

DECISION NO. 1717.

IN THE MATTER OF THE APPLICATION OF SOLEDAD LAND AND WATER COMPANY FOR AUTHORITY TO SELL CERTAIN OF ITS PROPERTY.

Application No. 1264.

Decided August 5, 1914.

Applicant, desiring to change its status from a public utility to that of a mutual company, petitions for permission to transfer certain of its ditches and laterals to three certain consumers in return for agreements from said consumers in which they release all their rights to obtaining water from applicant.

Held, In view of the fact that the three consumers mentioned are already obtaining water from another company, application granted.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

The applicant, Soledad Land and Water Company, has been endeavoring to change its status from a public utility corporation to a mutual water company. To this end it has entered into written agreements with three of its consumers whereby, in consideration of these consumers absolving this company from all obligation of furnishing water to them, the company has in turn agreed to convey all of its interest in rights of way for distributing ditches on the lands of these consumers, these distributing ditches serving only these particular consumers.

The approval of this Commission is necessary to the carrying out of these contracts, because they involve the disposition of property now owned by the Soledad Land and Water Company.

The consumers who are waiving their right to service are served with water from other sources, and I see no reason for withholding our approval to the proposed disposition of property under these contracts.

Separate written contracts embodying these agreements with these three consumers have been submitted and are on file herein. In one instance, a lateral ditch is excluded from the effect of these contracts, because this lateral ditch crosses the land of one of these consumers

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and serves the land of a consumer not a party to any of these agreements.

I submit herewith the following form of order.

ORDER.

Application having been made by Soledad Land and Water Company for an order authorizing the sale of certain of its property under the terms of written contracts submitted herein and it appearing to the Commission that this application should be granted, and that public interest does not require a hearing of this application,

It is hereby ordered, by the Railroad Commission of the State of California, that Soledad Land and Water Company is hereby authorized to sell and dispose of that certain property described in an agreement entered into between Soledad Land and Water Company, a corporation, and Margaret J. Whisman, dated the 25th day of July, 1914. Said property to be sold and disposed of under the terms and conditions of said contract, a copy of which is on file herein, and reference to which is made for particulars.

Soledad Land and Water Company is further authorized to sell and dispose of that certain property described in a contract between Soledad Land and Water Company, a corporation, and Fred A. Greaton, dated the 25th day of July, 1914, said property to be sold and disposed of under the terms of said contract, a copy of which is on file herein and reference to which is hereby made for particulars.

Soledad Land and Water Company is further authorized to sell and dispose of that certain property described in a contract between Soledad Land and Water Company, a corporation, and John Ober, dated the 25th day of July, 1914. Said property to be sold and disposed of under the terms and conditions of said contract, a copy of which is on file herein, and reference to which is hereby made for particulars.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of August, 1914.

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Decision No. 1718, grade crossing; not printed. See end of volume.

DECISION No. 1719.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AUTHORITY TO ISSUE A NOTE IN THE SUM OF SIX THOUSAND FIVE HUNDRED DOLLARS.

Application No. 1210.

Decided August 8, 1914.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Written request having been made by the applicant herein that this application be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 8th day of August, 1914.

Decision No. 1720, grade crossing; not printed. See end of volume.

DECISION No. 1721.

IN THE MATTER OF THE APPLICATION OF HANFORD GAS AND POWER COMPANY TO ISSUE A NOTE FOR SIX THOUSAND DOLLARS.

Application No. 1259.

Decided August 11, 1914.

Thomas R. White, for Applicant.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner.*

This proceeding is essentially *pro forma,* and only the requirement under the law of holding the hearing makes it necessary that the hearing be held, because from the face of the application it can be determined that the application should be granted.

The applicant now owes Wells Fargo & Company's bank $7,000.00, drawing interest at 6 per cent, which was due August 8th. It wishes to pay $1,000.00 and issue a new note for $6,000.00 for ninety days at 6 per cent. Thereafter the plan is to pay off $1,000.00 each ninety days. It is only the necessity of issuing the new note that makes the permission of this Commission necessary.

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I recommend that the application be granted and submit the following order:

ORDER.

Hanford Gas and Power Company having applied to this Commission for permission to issue its note for six thousand (6,000) dollars for ninety (90) days, to draw interest at 6 per cent, which refunds a previously outstanding lawfully incurred indebtedness, and a hearing having been held, and being fully apprised in the premises,

It is hereby ordered that permission be granted to the Hanford Gas and Power Company to issue its said note for six thousand (6,000) dollars to Wells Fargo & Company's bank for ninety (90) days at 6 per cent and that thereafter it be authorized to reissue said note in the same or smaller amount at the same per cent up to and including the 10th day of August, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of August, 1914.

Decision No. 1722, grade crossing; not printed. See end of volume.

DECISION No. 1723.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE BONDS OF THE FACE VALUE OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS, BEARING INTEREST AT THE RATE OF FIVE PER CENT PER ANNUM, DUE NOVEMBER 1, 1939.

Application No. 350.

Decided August 12, 1914.

REPORT OF THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Southern California Edison Company having reported that it has sold all the bonds heretofore authorized in the above entitled proceeding, except 321 bonds of the denomination of $1,000.00 each, and that it is not possible for the company at this time to sell these bonds at 89 per cent of their face value, but that it is expected to realize 87½ per cent of their face value, and the Commission being of the opinion that under the existing circumstances the sale at 87½ per cent of face value should be authorized,

It is hereby ordered that Southern California Edison Company be and the same is hereby authorized to sell the remaining bonds of the issue heretofore authorized in this proceeding, viz, three hundred and

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twenty-one (321) bonds of the face value of one thousand (1,000) dollars each, bearing numbers 17,552 to 17,872, inclusive, so as to net not less than eighty-seven and one half (87½) per cent of their face value, plus accrued interest.

In all other respects the Commission's orders heretofore issued in the above entitled proceeding shall remain in full force and effect.

Dated at San Francisco this 12th day of August, 1914.

DECISION NO. 1724.

VALLEJO TRADES AND LABOR COUNCIL

vs.

VALLEJO ELECTRIC LIGHT AND POWER COMPANY AND CITY COUNCIL OF THE CITY OF VALLEJO.

Case No. 540.

Decided August 12, 1914.

Complainant alleging that the present rules and regulations of respondent, serving electric energy in the city of Vallejo, are unjust and unreasonable, petitions the Commission to establish a just set of rules effective on this system.

Held, Respondent, though claiming to have eliminated all objectionable features of its present rules, joins in the petition to have the Commission establish a revised set, which just rules and regulations are prescribed to become effective within twenty days. Respondent's petition to have all its present contract rates abrogated, denied, though no provisions are made in the established rules providing for contract service.

E. P. E. Troy, for Complainant.

Frank E. Powers, for Vallejo Electric Light and Power Company.

W. T. O'Donnell, for City of Vallejo.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is a complaint against certain of the rules and practices of Vallejo Electric Light and Power Company in its distribution of electric current for lighting in the city of Vallejo. The city of Vallejo was joined as a defendant but, in view of the fact that the electors of the city on the 9th day of April, 1914, duly turned over to the Railroad Commission all of its powers of regulation over public utilities of this and other classes, on motion of said city and by consent of all parties, the complaint against it was dismissed.

In its answer and at the hearing, the company took the position that all of the rules and regulations objected to by complainant had been eliminated.

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Both the complainant and the company now ask the Commission to prescribe and establish just rules and regulations to be observed by the consumers and the company. There will be found attached to the order herein rules and regulations prepared by the Commission.

The company has maintained the position that it will make extensions only when each extension will show a profit. This, of course, is not the proper basis upon which to determine whether or not extensions shall be made. The business of the utility as a whole should be considered, and, if the extension is otherwise proper, the result of the extension upon the entire financial status of the company should be considered, rather than considering the extension as a separate venture.

The privilege which this company has of using all of the streets of Vallejo should carry with it the obligation to extend to all parts of the city at its own expense, unless it be shown that such extension would be unreasonable and unjust.

In Vallejo, where 90 to 95 per cent of the city is now covered by the company's wires, and where this Commission denied permission to a competitor to enter, in the belief that this company was performing and would continue to perform its full duty to the public, I believe a rule should be provided that this company shall extend its service to all existing dwellings within the city of Vallejo where such dwellings have been wired and upon demand being made for such service in writing, and the other rules, of course, complied with.

It will be noticed that the rules contain no provision for the making of contracts, and this has purposely been omitted, as the company's present practice is not to demand contracts, and there seems to be no good reason why such contracts should be insisted upon.

The attorney for complainant requests that the Commission strongly condemn the practice of exacting contracts for the furnishing of utility service, and that it insist that this company voluntarily abrogate such contracts as it now holds. This request will have to be denied, as to sweepingly condemn the making of contracts for service would in my opinion be unjustified.

The attitude of the management of Vallejo Electric Light and Power Company does not in all respects comport with its obligations to the public. For instance, Mr. Casper, the general manager, testified that when application was made to him for an extension to the residence of Mr. Shouse, he informed Mr. Shouse that if he would bring about the use of electricity by all of his neighbors who could use this extension it would immediately be put in; otherwise it would only be put in if the poles of the telephone company could be used upon which to string the electric wires. At the same time Mr. Casper testified that to make this extension would not unreasonably reduce the total net revenue of the company.

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The attention of the manager of this company is called to the fact that its competitors have been denied entrance into the city by this Commission, upon the theory that it would perform its full obligations to the public—this, of course, including reasonable rates, good service, and proper extensions of service. Furthermore, that it has in effect a franchise to use all of the streets of the city of Vallejo, and it now has a virtual monopoly. There rests upon the managers of this company the obligation to use their utmost endeavors properly to serve all the citizens of this city with electricity, of course, under the rules prescribed. If these managers see fit to avoid their responsibilities and to ignore this obligation, it may become incumbent upon the Commission to admit competition in order that the citizens may be properly served.

I submit herewith the following form of order:

ORDER.

Complaint having been made by *Vallejo Trades and Labor Council* vs. *Vallejo Electric Light and Power Company* and *City Council of the City of Vallejo,* as to the rules, regulations, and service of said Vallejo Electric Light and Power Company, and it appearing that the complaint as to the city council of the city of Vallejo should be dismissed, and a public hearing having been had, evidence submitted and the Commission fully apprised in the premises, it is hereby found as a fact by the Railroad Commission of the State of California that the rules, regulations, and practices of Vallejo Electric Light and Power Company for the service of electricity to its consumers are unreasonable and unjust; and, it being further found as a fact that the rules and regulations attached hereto, marked Exhibit "A" and made a part of this order, are just and reasonable rules to govern the service of electricity to its consumers by Vallejo Electric Light and Power Company,

It is hereby ordered, by the Railroad Commission of the State of California, that the rules and regulations as prescribed and set forth in Exhibit "A," attached hereto and made a part hereof, shall be the rules and regulations under which Vallejo Electric Light and Power Company shall deliver electric service, and that this order shall take effect within twenty days from the date hereof.

It is hereby further ordered that the complaint herein is dismissed as to the defendant, City Council of the City of Vallejo.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of August, 1914.

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EXHIBIT "A"

Rules and Regulations Governing Electric Service in the City of Vallejo.

Service and Line Extensions.

1. The company shall adequately and properly serve each and every consumer and shall within fifteen (15) days after receiving written application, at its own expense, extend its lines, wires, conduits, services, and facilities to any dwelling in the city of Vallejo which has been properly wired and otherwise prepared to receive service.

Service Facilities.

2. The company shall at its own expense furnish and install all lines, wires, conduits, services and facilities necessary for the delivery and measurement of electric energy at the standard voltage hereinafter referred to.

Interruptions of Service.

3. The company shall keep an accurate record of all interruptions or partial interruptions of service upon its entire system or major divisions thereof.

Complaints.

4. The company shall keep an accurate record of all complaints made to it by its consumers, which record shall include the name and address of the consumer, the date, a statement of the complaint, and a statement of what action was taken by the company with reference thereto.

Testing Equipment.

5. The company shall provide itself with suitable equipment for the testing of electric service meters.

6. All portable and other testing standards and equipment used or to be used by the company for the purpose of testing the accuracy of any electric service meter shall be registered with the Railroad Commission. In reporting testing equipment for registration, as herein provided, the make, type, rated capacity and manufacturer's serial number of each instrument or piece of apparatus shall be given together with the date purchased, and the length of time each has been in service.

Service Charges and Deposits.

7. No meter rental or other charge shall be made by the company for service facilities supplied and owned by it, but the company may, where the circumstances warrant, require the deposit by an applicant for service of an average month's bill in advance, if the rule is applied uniformly and without discrimination, and for the purposes of this rule an average month's bill, for residence lighting service, will be assumed to be two dollars ($2.00).

Discontinuance of Service.

8. In the event of non-payment by any consumer of the company's bill for the last one month's service, within thirty days from the day when such bill is rendered by the company, the company may discontinue its service, and require a reconnection payment of fifty cents (50c) before service is resumed. In the event of continued failure, refusal or neglect on the part of any consumer to pay said one month's bill, the company may, at the expiration of sixty days, remove its meter and other property from the consumer's premises, and in the event of such removal by the company of its meter or other property by reason of a consumer's delinquency, or at the request of any consumer, the company may require the payment by consumer of a reconnection charge of one dollar ($1.00) before the meter is again installed and service resumed; provided, that no service or reconnection charge shall be required from a non-delinquent consumer who requires service at a new location.

Record of Charges and Deposits.

9. A complete and accurate record shall at all times be kept by the company of each and every prepayment, deposit, or reconnection charge received by it; such record shall show the name and address of the consumer or applicant, the location of the premises to be served, date of application, date of receipt and amount of prepayment, deposit or reconnection charge, the character and amount of consumer's connected load, the date of service connection and a brief statement of the circumstances surrounding the payment of each such prepayment, deposit or reconnection charge.

Non-recording of Meter.

10. In the event that any electric service meter shall fail to register, the amount of consumer's bill shall be estimated, but shall not exceed the average consumption for the same month of other consumers of the same class per unit of connected load.

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Accuracy and Tests of Service Meters.

11. No electric service meter which registers upon "no-load" shall be placed in service or allowed to remain in service.

12. No electric service meter shall be placed in service or allowed to remain in service which has an error of registration in excess of two (2) per cent plus or minus, under the normal operating conditions of any consumer's installation.

13. Each electric service meter shall be tested and adjusted for accuracy at the time of its installation.

14. Each service meter shall be tested at least once each year; the test to be made by comparing the meter while connected in its place of service with suitable standards, on light load, half load and full load rate of operation.

15. The company shall make a test of the accuracy of any service meter upon request of a consumer, provided such consumer does not make request for tests more frequently than once in six (6) months. A written report, giving the results of any test made upon request of a consumer shall be made to the consumer within five (5) days after the completion of such test.

16. A complete detailed record shall be kept by the company of all tests made on electric service meters.

Voltage and Regulation.

17. The company shall adopt and maintain a standard average value of voltage, as measured at any consumer's cut-out, which shall remain constant from day to day, and vary during any one day by an amount not more than 6 per cent of the minimum value.

Information as to Service.

18. The company shall specifically inform each of its consumers as to the conditions under which efficient illuminating service may be secured from its system.

Decisions Nos. 1725 and 1726, grade crossings; not printed. See end of volume.

DECISION NO. 1727.

ROSENBERG COMPANY
vs.
PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 608.

Decided August 12, 1914.

Complainant, alleging that the present minimum rates of defendant of $1.00 per horsepower per month is exorbitant, petitions the Commission to change the schedule under which he is receiving power so as to reduce the minimum to approximately $6.00 instead of $15.00 as now paid.

Held, In view of the fact that complainant does not attack the reasonableness of the rate itself, his principal contention being that present business does not permit of the use of an amount of energy sufficient to cover the present minimum, which rate is the regular rate in effect over defendant's system and to reduce same in complainant's case would be creating discrimination, complaint dismissed.

L. R. Rosenberg, for Complainant.

C. P. Cutten, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

The complainant in this case alleges that it is engaged in the business of feed and fuel merchant in Hayward, Alameda County; that it has installed a 15 horsepower Westinghouse motor for the purpose of driv-

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ing a small barley roller and feed mill and a wood saw; that defendant requires complainant to purchase power under its Schedule No. 112, exacting $1.00 per month per horsepower minimum, while complainant's average monthly power consumption is only about 200 kilowatt hours, which consumption at the rate of 3 cents per kilowatt hour amounts to about $6.00 per month; and that complainant has not sufficient business so that its monthly bill at the rate of 3 cents per kilowatt hour will run up to the minimum of $15.00 per month.

The answer denies the material allegations of the complaint and alleges that the proper schedule is Schedule No. 120, which schedule differs from Schedule No. 112 only slightly in the service rate, and not at all in the minimum. The hearing in this case was held in San Francisco on August 5, 1914.

The evidence shows that complainant received power from Suburban Light and Power Company up to January, 1911, and that since said date it has been receiving its power from Pacific Gas and Electric Company, the successor of Suburban Light and Power Company; that at the time the property was taken over by Pacific Gas and Electric Company, complainant was paying on an average between $20.00 and $25.00 per month for power; that on April 20, 1911, the Kavanaugh-Rosenberg Company, complainant's predecessor, entered into a contract with Pacific Gas and Electric Company, under which contract the top rate was to be 4 cents per kilowatt hour, with a minimum of $200.00 per year; that on January 2, 1912, the parties entered into an agreement under which the top rate was reduced from 4 cents to 3 cents per kilowatt hour; that during the first year, the current consumed was in excess of $200.00 but that thereafter complainant's business has fallen off, so that the amount of current consumed has been less than $200.00 per year; that complainant has refused to pay the minimum of $200.00 per year under its contract; that on the expiration of the agreement of April 20, 1911, Pacific Gas and Electric Company took the position that its regular schedule for this class of service should apply; and that this schedule is Schedule No. 120, under which schedule the rate is as follows:

> 3 cents per kilowatt hour for the first 500 kilowatt hours per month;
> 2½ cents per kilowatt hour for the second 500 kilowatt hours per month;
> 2 cents per kilowatt hour for the next 1,000 kilowatt hours per month;
> 1¾ cents per kilowatt hour for the next 1,000 kilowatt hours per month;
> 1½ cents per kilowatt hour for the next 1,000 kilowatt hours per month;
> 1¼ cents per kilowatt hour for all over 4,000 kilowatt hours per month.
> Minimum $1.00 per month per horsepower installed, up to and including 50 horsepower, with a minimum of 50 cents per month per horsepower over 50 horsepower.

It follows that at the time Suburban Light and Power Company's property was taken over by Pacific Gas and Electric Company, complainant was paying at the rate of between $240.00 and $300.00 per

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year, that under the contract it was obligated to pay $200.00 per year, but that during the last two years the minimum was in excess of the amount due under the service rate, and that under the existing schedule the minimum is $15.00 per month.

The evidence further shows that complainant operates a small barley roller and feed mill and wood saw in Hayward, but that complainant's business along this line has fallen off, so that there is only occasional demand for the operation of the same. Nevertheless, complainant must have at least 12 horsepower available to operate this machinery. The difficulty in the situation arises from the fact that complainant's business has fallen off, so that there is only occasional demand for the operation of this machinery.

Complainant is of the opinion that if the minimum is reduced new customers may be taken on, but complainant presented no evidence whatsoever as to the unreasonableness of the existing minimum of $1.00 per month per horsepower, other than that under the existing condition of complainant's business complainant is of the opinion that it is a burden to pay this minimum.

The evidence further shows that for installations up to 50 horsepower the minimum of $1.00 per month per horsepower for industrial power is uniform over defendant's entire system. There is no evidence in this case to show whether, under the usual bases of establishing rates, this rate is reasonable or unreasonable. The complainant has not sustained its burden of proof on this issue, nor can I advise the Commission, in view of the fact that this is the only case in which this minimum has been questioned before the Commission, to institute the very laborious and extensive investigation which would be necessary to determine whether this system-wide minimum is or is not reasonable.

The entire tendency of rate making under public supervision is to establish uniform rates and to prevent the deviations which always produce discrimination of one kind or another. While it is unfortunate if the business conditions of a firm or individual are such that it feels that it can not afford to pay an existing rate, this fact alone can not induce the public authorities to establish a deviation in favor of such firm or individual.

While regretting that under the present condition of complainant's business complainant is of the opinion that the existing minimum is a burden, I have no alternative, under the evidence in this case, and must recommend that the complaint be dismissed.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the matter having been submitted, and being now ready for decision,

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It is hereby ordered that said complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of August, 1914.

Decisions Nos. 1728 and 1729, grade crossings; not printed. See end of volume.

DECISION NO. 1730.

CITY OF HUNTINGTON BEACH
vs.
HUNTINGTON BEACH COMPANY.

Case No. 480.

IN THE MATTER OF THE APPLICATION OF HUNTINGTON BEACH COMPANY FOR PERMISSION TO INCREASE RATES FOR WATER SERVICE.

Application No. 791.

Decided August 11, 1914.

Complainants alleging that the rates of respondent company for water and electric service are unjust and unreasonable, petitions the Commission to fix reasonable rates for these two classes of service. Huntington Beach Company, defendant, applies for permission to increase its present rates, the two cases being combined.

Held, Subsequent to the hearing upon this complaint, defendant having sold its electrical distributing system to Pacific Light and Power Company, which latter corporation has placed in effect rates for electric service considerably lower than those complained of, this portion of complaint dismissed.

Held, That the present rates of defendant for water service are unjust in so far as they differ from the schedule herein established which schedule includes a flat rate of $1.25 for dwellings of five rooms or less, and a meter rate of $1.00 minimum per month for 500 cubic feet and 10 cents for each additional 100 cubic feet. Just and reasonable rules and regulations established to become effective within thirty days from date.

Held, That when a water system is constructed of a size considerably in excess of the present need, it would be unfair to place the entire burden of maintenance upon the present consumers, and that though no general rule can be laid down as to what proportion present consumers shall bear, for the present case 100 per cent of plant, in addition to that necessary for their use, together with entire operating expenses, is both fair to the utility and the consumers.

C. B. Eyer, for Huntington Beach Company.

S. M. Davis, for City of Huntington Beach.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is a complaint against Huntington Beach Company by the city of Huntington Beach setting forth two causes of action, the first involv-

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ing rates for water supplied the city of Huntington Beach and its inhabitants, the second involving rates for electricity charged said city and its inhabitants.

Subsequent to the hearing the second cause of action was dismissed, as the electrical plant of the Huntington Beach Company had been sold to Pacific Light and Power Corporation and upon such sale the latter company established lower rates for service than were complained against in the complaint herein. Subsequent to the filing of the city's complaint Huntington Beach Company filed an application, No. 791, asking for authority to establish water rates considerably in advance of those then and now in effect in said city. As the city's complaint and the company's application involve the same thing, to wit, water rates, they were combined.

Prior to the filing of these actions the city of Huntington Beach had duly turned over to this Commission its control over electric and water corporations.

As Huntington Beach is a somewhat sparsely settled community with a water system extending over the entire city, it becomes necessary to determine what part of this plant shall be charged against present consumers, for unless it be held that the burden of an entire utility system shall be borne by existing consumers without regard to the fact that such system may be largely overbuilt, we must come to a conclusion as to what part of such overbuilt plant should fairly be cared for by those who now use it.

The absurdity of holding that the entire plant must be charged against existing consumers can at once be demonstrated by citing a not impossible case where a city newly laid out is occupied by its first citizen or settler. The subdividers of the tract or owners of the property probably would install a complete water system, so that as people purchased the vacant lots and settled upon them water would be available. It requires no argument to show that if the one consumer were compelled to pay a rate which would care for the entire plant as to depreciation, operating expenses and fair return, the rate would be prohibitive. This would be equally true of the next consumer and the next, but as we reach a point where all of the land is occupied, then it must be admitted that consumers should bear the burden of the entire plant. On the other hand, experience has shown that to economically build a water system it is necessary to provide for some future growth, and that the plant be built to some extent in excess of present needs.

Just how much of the burden of excess plant should be borne by consumers is a question which can only be determined under the circumstances of each case. Here we find that Huntington Beach was laid out by the owners of property, and in order to induce the sale of lots this water system was installed, completely covering the streets

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of the city. Thereafter, from time to time, people purchased lots and built houses thereon and became consumers of this water system, so that at the present time it is estimated that approximately one sixth of the territory covered by the plant is or will be occupied during 1914 and 1915. Purchasers have been allowed to select lots in any portion of the city, with the result that in many instances lots which are occupied are widely scattered, and between consumers there are many vacant lots. But it would be impossible to do away with any considerable portion of this plant because the unused portion of pipe between consumers' services must be maintained in order that consumers at the ends thereof be served.

This situation has undoubtedly been brought about by the owners of the land which was subdivided into city lots, and while I do not think we should lay down the rule that we will only allow plant value based on an absolutely compact use of the system, that is to say, as though each lot is occupied by a consumer, still I do think that, the situation in Huntington Beach being brought about by the company which originally subdivided the land and put in this water system and now owns the same, a considerable portion of the burden of this plant should be borne by this company.

I think a very liberal conclusion for the company would be that 100 per cent of plant be borne by existing consumers over that which would be needed for their use if they were compactly located and the plant had been built of a capacity and extent only to serve them. This results in charging against consumers one sixth of the water plant and an additional one sixth as reasonable excess, the operating expense to be borne entirely by existing consumers as it is incurred wholly for their benefit.

The Huntington Beach Company through its engineer, Mr. P. E. Harroun, presented a determination of the value of the property of the company, as did Mr. H. Clay Kellogg, engineer for the city of Huntington Beach, and each presented also an estimate of the amounts to be allowed for annual depreciation of the properties and for maintenance and operation of the water system. The quantities are shown by the following tabulation:

	Present value	Six per cent interest	Annual depreciation	Maintenance and operation	Total charges
Company	$80,815 00	$4,849 00	$3,006 00	$10,351 00	$18,206 00
City	54,056 00	3,213 00	2,084 00	4,650 00	9,977 00

In addition to the sum set forth above by Mr. Kellogg, he tentatively suggested the addition of the annual cost of service connections and extras amounting to $1,111.00, which item would bring his estimate

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of total annual charges to be received by the company to $11,088.00. The difference between the two engineers is largely in the estimate of the cost of pipe laying, in the inclusion by one and the exclusion by the other of service connections, and in the accidental omission of some items by the engineer testifying for the city of Huntington Beach. In the item for maintenance and operation, the difference is largely concerned with the cost of pumping water. The Huntington Beach Company has charged against its water operations a rate for the use of electric power at 10 cents per kilowatt hour, supposedly being almost exactly the cost of development of the power without the addition of capital charges. The rate now established in Huntington Beach and vicinity is 2 cents per kilowatt hour.

From the various exhibits presented it is determined that during 1913 the total power used amounted to 64,730 kilowatt hours, which at 10 cents amounts to $6,473.00, and would have amounted to $1,095.00 at the 2-cent rate, a reduction of $5,378.00. Should this be applied to the book figures of maintenance and operation, $11,316.00, the total annual charges on this account remaining that should be received in 1913 are $5,938.00.

From the books of the company and the statement of the company's accountant there was obtained the evidence of growth of income obtained by this company from water sales as shown by the following tabulation:

	Income	Percentage of increase over previous year
1909	$2,552 11	
1910	2,872 31	12.5%
1911	4,118 94	43.4%
1912	5,113 78	24.1%
1913	6,487 91	26.8%

During this time there was no considerable change in the rate charged excepting that during 1913 the installation of meters first began to a definite extent, the number being increased from two at the beginning of the year to two hundred at the end of the year.

There was obtained from the books of the company a record of water use and the number of connections in active operation throughout the seasonal year 1912 and 1913. It is evident that a larger number of consumers obtain water during the summer than during the winter months, and it is difficult to forecast by a year through the transition period from flat to metered water rates what will be the future conditions. It is assumed here that during 1914 and 1915 an average of 250 meters will be in service, and, further, based upon

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the best records obtainable, the metered use will follow the tabulation given below:

Metered use.

Number of consumers. Months as indicated. Amounts in cubic feet.

Month	Total users	Under 500 cubic feet	500 to 1,000	1,000 to 4,500	4,500 to 10,000	Above 10,000	Total use above 10,000 cubic feet
October	235	115	57	35	23	5	300,000
November	227	111	56	33	22	5	250,000
December	223	109	54	33	22	5	100,000
January	197	96	48	29	19	5	100,000
February	195	95	47	29	19	5	100,000
March	207	101	51	30	20	5	100,000
April	215	106	52	31	21	5	125,000
May	217	106	53	32	21	5	225,000
June	227	110	55	33	22	7	300,000
July	245	120	60	35	23	7	300,000
August	250	122	61	37	24	5	300,000
September	245	120	60	36	24	5	350,000
	2,683	1,311	654	393	260	64	2,550,000

It will be further assumed that an additional 200 connections will still receive water under flat rates, and that of the connections for these consumers the same proportion of the total number will be in operation during the various months of the year as of the metered consumers, which would provide a total of 2,145 consumer months demand.

The rates now in effect are:

The first 500 cubic feet at 20 cents per 100 cubic feet;
The next 4,000 cubic feet at 10 cents per 100 cubic feet;
All used over 4,500 cubic feet at 6 cents per 100 cubic feet;
Monthly minimum for any use $1.00.

The rates asked for by complainant:

The first 750 cubic feet at 13⅓ cents per 100 cubic feet;
The next 3,250 cubic feet at 10 cents per 100 cubic feet;
The next 6,000 cubic feet at 8 cents per 100 cubic feet;
All used over 10,000 cubic feet at 5 cents per 100 cubic feet;
Monthly minimum for any use $1.00;
For unmetered service practically as provided in Ordinance No. 90.

The rates applied for by the company are:

Minimum $1.25 per month for 500 cubic feet or less;
Next 4,000 cubic feet at 15 cents per 100 cubic feet;
Above 4,500 cubic feet at 10 cents per 100 cubic feet;
Flat rates, dwellings of 5 rooms or less, $1.25 per month with graded additional charges;
Fire hydrant rental, 2-inch $2.00 per month and varying higher charges up to $4.00 for 4-inch fire hydrant.

There is now no charge being made for water supplied to fire hydrants in the city of Huntington Beach, and the company asks that we fix a rate for this service on a rental basis as follows:

2-inch fire hydrants	$2 00 per month.
2½-inch fire hydrants	2 50 per month.
3-inch fire hydrants	3 00 per month.

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The engineer of the company, Mr. Harroun, suggested another system of rates based on a substitutional plan theory which would result in an annual charge of $3,883.00. The company's rental charges would result in an annual charge of $2,532.00.

There are now established 58 2-inch hydrants, 20 2½-inch hydrants, and 15 3-inch hydrants. Fifty of the 2-inch hydrants were installed by the city of Huntington Beach at its own expense.

I think it is obvious that the rates asked for or suggested by both the company and Mr. Harroun are excessive under the circumstances.

Some payment should be made by the city for this service, as otherwise the consumers must bear the burden, but I do not believe the rate should be fixed upon the theory that this company has built its plant larger than it otherwise would in order adequately to serve the city with water for protection against fire. The evidence establishes the fact that this water system is not any larger than would be necessary if the town becomes fully populated.

I think a reasonable rate for this service is $1.00 per month for each of the 2 and 2½-inch hydrants and $1.50 per month for the 3-inch hydrant.

The returns under each of the three schedules of rates using the assumed demand upon the system set forth in the preceding, is shown in the following tabulation:

Item	Unit	Amount	Rate	Now in effect	Asked for by complainant	Asked for by company
Metered minimum	Consumer mos.	$2,638	$1 00	$2,683 00	$2,683 00	
Metered minimum						$3,354 00
Metered excess	Cubic feet	851,300	15			1,277 00
Metered excess	Cubic feet	3,265,000	10			3,265 00
Metered excess	Cubic feet	851,300	10	851 60		
Metered excess	Cubic feet	3,265,000	06	1,959 00		
Metered excess	Cubic feet	700,000	10		700 00	
Metered excess	Cubic feet	765,000	08		612 00	
Metered excess	Cubic feet	2,550,000	05		1,275 00	
Total metered income				$5,493 00	$5,270 00	$7,896 00
Flat rates, consumer months		$2,145 00	(Est.) $1 50	3,217 00		
			1 40		2,993 00	
			1 75			3,754 00
Fire hydrants, number		93	Varying rate			2,532 00
Municipal use estimate					100 00	500 00
Total estimated income				$8,710 00	$8,363 00	$14,682 00

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As was set forth in the first tabulation in this opinion, the engineer for the company testified that the present value of the water utility properties was, at the time of his report, $80,815.00. I find it reasonable that there should be deducted from this amount $53,877.00 for the reasons hereinbefore stated.

Reducing the valuation presented as heretofore discussed, gives us the following result:

Value of plant	$26,938 00
Interest on the above at 6 per cent	1,616 00
Depreciation	1,002 00
Maintenance and operation	6,555 00
Total annual charges	9,173 00

The flat rates asked for by the company would result in substantial increases and I do not believe this is justified. The flat rates which I recommend are substantially the same as those now in effect with such changes and adjustments as the evidence indicates should be made.

The meter rates will be:

Minimum payment for 500 cubic feet	$1 00
Next 4,000 cubic feet, per 100 cubic feet	10
All over 4,500 cubic feet, per 100 cubic feet	06

The income that may be anticipated under these rates appears to me to be as follows:

Metered minimum	$2,683 00
Excess use	2,810 00
Flat rates	3,254 00
Fire hydrant rental	1,206 00
Municipal use estimate	300 00
Total	$10,200 00

The rules submitted by the company for approval in its application have been modified, and I recommend that they be approved in their modified form as found in Exhibit "A" attached to the order herein.

I submit herewith the following form of order:

ORDER.

Complaint having been made by the city of Huntington Beach against the rates charged by Huntington Beach Company for water and electricity furnished the city of Huntington Beach and its inhabitants, and Huntington Beach Company having filed an application with this Commission for authority to increase its rates charged said city and its inhabitants for water, and asking permission to prescribe just and reasonable rules for the service of such water, and the complaint having been dismissed as to rates charged for electricity, and the complaint against the water rates and the application by the company for their increase having been combined, and a public hearing

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having been had thereon and the matter submitted, and the Commission being fully apprised in the premises, it is hereby found as a fact by the Railroad Commission of the State of California that the rates, rules, and regulations of Huntington Beach Company, in so far as they differ from the rates, rules, and regulations herein found to be reasonable, are unreasonable and unjust, and the rates, rules, and regulations set out in Exhibit "A," attached hereto and made a part hereof, are hereby found to be just and reasonable rates, rules, and regulations for the distribution of water by Huntington Beach Company to its consumers, and basing its order on the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered, by the Railroad Commission of the State of California, that Huntington Beach Company put into effect the rates, rules, and regulations herein found to be reasonable and fully set out in Exhibit "A," attached hereto and made a part hereof, within thirty days from the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of August, 1914.

"EXHIBIT A."

Huntington Beach Company. General Rules.

Applicable to all consumers.

DOMESTIC WATER SERVICE.

RULE 1. All water rates, except meter rates, are due and payable monthly in advance on the first of each month. In all cases of the non-payment of the water rate, notice may be given that the supply will be cut off, and five days after such notice has been given, if the bill for water has not been paid, the supply will be cut off and the water will not again be turned on except upon the payment of the amount due, together with the sum of one dollar as a charge for turning on water; provided, however, that in case of leased premises where the tenant is to pay the water rent, unless he pays the same in advance, on or before the tenth day of each month, the water will be shut off without notice and will not again be turned on, except upon payment of the amount due, together with the sum of one dollar as a charge for again turning the water on.

RULE 2. When water is supplied to two or more consumers through one connection, the company will contract only with the owner of the lot or his authorized agent, and the amount of monthly charges will be included in one bill. No consumer may supply water to other persons or families except by written permission of the superintendent or other authorized officer of this company, and he will then be responsible for all water so used, and the amount thereof will become a part of his water bill.

RULE 3. All persons taking water shall keep their service pipes connecting with the company service in good repair at their own expense, and will be liable for all damages which may result from their failure to do so.

RULE 4. The superintendent or other authorized agent of the company shall be admitted at all reasonable hours to all parts of any premises supplied with water that is not metered, and persons who are found to have misrepresented the purposes for which water is used shall be subject to the penalty provided for violation of these rules.

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RULE 5. Except as particularly provided in these rules, no one other than the superintendent or other authorized officer of the company shall tap any main or make any addition or alteration whatever upon any part of the water system of this company, nor turn on water at any connection or hydrant. All meters and pipes, except those upon the property of the consumers, are the property of the company. Any damage resulting from the carelessness or neglect of the owner, agent or tenant of the premises where a meter is connected, to the meter or to the connections, shall be charged against the consumer.

RULE 6. An authorized employee of the company may give written permission to turn on water, to make a connection, or for any other specified purpose, but this permission shall apply in the one specified instance only, and the property of the company must be returned to proper condition or all damages paid to the company.

RULE 7. No person or persons shall place upon or about any hydrant, water gate or stop-cock, connected with the water pipes of the company, any building material or other substance so as to prevent free access to the same at all times.

RULE 8. Domestic service connections shall hereafter consist of ¾-inch diameter service pipe, and a ⅝-inch meter. Not more than one connection shall be made for each lot. Service connection shall extend from main line of the company, in the street, to the curb line of the street, and where there is no curb line, to the lot line and from mains in the alley, to the lot line. Connections and meters will be installed at the expense of the company to supply an established dwelling or business place, upon written application to be made to the company for such service on blanks furnished by the company. When connections are requested to property not so occupied, the minimum rate to be charged each consumer shall be $1.00 per month, to be paid monthly in advance whether water is turned in or not, for a period of sixteen months commencing with the month of the installation of such service. The consumer shall deposit with the company the sum of sixteen dollars ($16.00) when applying for such connection, and shall be credited with said deposit. Said deposit will be charged with the minimum rate aforesaid, and with all excess water used until the said sum of sixteen dollars ($16.00) has been exhausted. Thereafter the regular minimum rate will apply.

RULE 9. Meters will be installed at the company's expense on connections already made upon application therefor on blanks furnished by the company or at the option of the company. Larger connections and meters will be installed at the expense of the company upon written application to be made to the company for such services. The consumer shall deposit with the company the difference between the cost of the larger connection and meter and the ordinary connection and meter, when applying for such connection, which deposit shall be credited to the consumer upon the water bills of the succeeding months.

RULE 10. No water shall be allowed to run to waste.

RULE 11. All consumers having arrangements for hot water should have a tank from which to feed the boiler. The company will not be responsible for the safety of boilers on the premises of any consumer.

RULE 12. All persons using water through unmetered connections must keep their own service pipes and cocks in good order and free from leakage.

RULE 13. Water rates will be charged for unused premises, in every instance, until the company shall have been notified in writing of the discontinuance of the use of water, and to turn the water off, and all changes in the use of water which may in any way affect the rate must be at once reported by the owner or occupant to the office of the company, and if not so reported, no rebate will be allowed.

RULE 14. All water users should have a stop-cock on their own premises to shut off the water for repairs, etc. A charge of $1.00 will be made each time the company's stop-cock is used for this purpose, and no one will be allowed to use the company's stop-cock except the authorized agent of the company, who will make no charge for turning off water for the purpose of putting in above named private stop-cock.

RULE 15. Meters will be read monthly as nearly as possible upon the last day of each month or the first day of the month following, and bills will be sent between

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the first and fifth days of the month for the preceeding month by mail postpaid or by delivery at the residence or place of business of the consumer. Meter bills will be delinquent upon the tenth day of the month for the preceding month, and if not then paid, the company may turn off the water upon five days' notice.

RULE 16. Fractional month's use will be prorated.

RULE 17. No water, except when taken through meters, shall be used for watering gardens, trees, lawns, flower beds or plants, except between the hours of 6 a. m. and 8 a. m. and 5 p.m. and 7 p.m., and no standing sprinklers shall be used without the written consent of the company.

RULE 18. Water will be furnished for municipal purposes at the rates specified but with no fixed monthly charge other than the fire hydrant rentals. When water is required for flushing sewers and like purposes, the city authorities shall give proper notice of the hydrants to be used and the time required.

RULE 19. All faucets, hose sprinklers, nozzles, or other continuous streams must be shut off promptly on the alarm of fire, and the water is not again to be turned on until the fire is known to be extinguished.

RULE 20. For any violation of the foregoing rules except in a generally conceded emergency, the water may be shut off by the company without notice, and will be turned on only upon assurance given by the consumer that he will comply with the rules and regulations. The consumer must also pay the sum of $1.00 for opening and closing the corporation cock and for any additional actual expense incurred by the company.

Water Rates for Domestic Service.

All rates are monthly rates.

Flat rates.

1.	For every dwelling house of 5 rooms or less, with bath and toilet, occupied by one family	$1 25
2.	Each additional room	10
3.	Each head of stock kept by family	25
4.	Small stores and business offices	1 00
5.	Stores and business offices employing four or more persons	1 25
6.	Offices on upper floors	50
7.	Stores using soda fountains, extra	50
8.	Bakeries	2 00
9.	Laundries	3 00
10.	Butcher shops	2 00
11.	Barber shops, not more than two chairs	1 50
12.	Barber shops, each additional chair	50
13.	Dentists' offices	1 50
14.	Public horse watering trough	2 00
15.	Public bath tubs	1 00
16.	Wagon and blacksmith shops, not more than two forges	2 00
17.	For each additional forge	50
18.	Lodge or meeting rooms	1 50
19.	Livery, feed, and sale stables, for each horse kept	25
20.	Photograph studios	2 00
21.	Restaurants or coffee houses	2 50
22.	Packing-houses employing not more than ten persons	5 00
23.	For each additional person	25
24.	Hotels, lodging or boarding houses containing not over five rooms	2 00
25.	For each additional room over five	10
26.	Fountains, not to be used over twelve hours per day, 1-16-inch jet	2 00
27.	Same, ⅛-inch jet	6 00
28.	Fire hydrants—	
	2-inch and 2½-inch	1 00
	3-inch	1 50
29.	Building purposes, each 1,000 brick wet and laid	10
30.	Building purposes, each barrel of lime or cement slaked	10
31.	Each lumber yard or machine shop	1 50
32.	Steam engines, per horsepower	25
33.	Gasoline engines, per horsepower	25
34.	Public garage not exceeding 5,000 square feet of floor area	3 00
35.	For each extra 1,000 square feet or fraction thereof	50
36.	Lawns, gardens, shade and ornamental plants under 3,000 square feet	50
37.	Same; use in excess of 3,000 square feet per 1,000 square feet, or part thereof	25
38.	Public closets, each urinal and stool and lavatory	1 00
39.	For use of hydrants for flushing streets and sewers each time hydrant is turned on	50
40.	Meter rates:	
	Minimum payment for 500 cubic feet	1 00
	Next 4,000 cubic feet per 100 cubic feet	10
	All over 4,500 cubic feet per 100 cubic feet	05

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Decisions Nos. 1731, 1732, and 1733, grade crossings; not printed. See end of volume.

DECISION NO. 1734.

IN THE MATTER OF THE APPLICATION OF THE CROKER LAND COMPANY FOR AN ORDER AUTHORIZING IT TO MAKE A MONTHLY MINIMUM CHARGE FOR WATER FURNISHED.

Application No. 1085.

Decided August 4, 1914.

Applicant, contending that its present rates are insufficient to cover operating expenses and provide a fair return upon capital invested, petitions for permission to install a minimum rate of $2.00 per month, entitling consumer to 4,000 gallons during the summer months, and $1.00 per month, entitling consumer to 2,000 gallons during the winter months.

Held, That applicant's present rates are unjust in that they do not permit of a sufficient return; but, in view of the fact that an adequate water supply is not absolutely assured and that applicant has constructed its system considerably larger than necessary to serve present consumers, the rates petitioned for can not be allowed. Rate of $1.00 per month for 2,000 gallons or fraction, excess water at 50 cents per 1,000 gallons, established to become effective September 1, 1914.

Thomas F. Boyd, for Applicant.

Hoefler & Morris, for Fairfax Improvement Club and other residents of the town of Fairfax.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application to establish a minimum monthly rate for water service where no such minimum has heretofore existed.

Applicant, the Croker Land Company, whose principal place of business is at San Anselmo, Marin County, was incorporated in 1907, and, as a part of its business, subdivided and put upon the market a number of residence tracts in the vicinity of Fairfax, Marin County. As an adjunct, and in connection with the sale of these tracts of land, applicant also engages in the supplying of water for domestic purposes to consumers, a majority of whom were purchasers of land. The water system is owned and operated solely by applicant as a water works department. There is no stock authorized or in existence.

The supply is obtained from two large wells or collecting basins located in the upper end of the largest of these subdivisions, known as Deer Park Tract. The water is pumped to two storage tanks, located about 200 feet above the level of the wells, and from this point distributed throughout the tracts to the consumers. The entire system is metered. To a large extent the district served by this water system may be termed a "summer home tract," although a considerable number of people reside here the year round. The number of permanent residents

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is gradually increasing. In 1913 some 150 consumers were served in July, the month of maximum use, and about 30 during December, the month of minimum use.

Applicant now supplies water at the rate of 50 cents per thousand gallons, and desires authority to establish the following: A minimum of $2.00 per month for 4,000 gallons during the months of May, June, July, August, September and October, and $1.00 per month for 2,000 gallons during the remaining months of the year; all excess water at the rate of 50 cents per 1,000 gallons.

This application is based upon the claim that the revenue produced by the existing rates has never been sufficient to meet the cost of operating the water works. A hearing on this application was held in San Francisco on May 18, 1914. At this hearing, a large number of consumers appeared to protest against the granting of this application.

In substantiation of the claim that the present rates were insufficient, applicant submitted that the actual investment in money in the water plant from date of installation to December 31, 1913, was the sum of $14,767.37; that the necessary expenditures for maintaining and operating the plant for the year 1913 were $790.18 and that the gross receipts from sales of water during the same period were $861.02, leaving but $70.84 with which to meet depreciation and interest. While applicant presented no detailed inventory of its property from which to determine the cost, the Commission's engineers were enabled to determine from the books of the company the amount of material which was put into the plant, as well as the actual cost of these materials.

Mr. James Armstrong, one of the Commission's hydraulic engineers, testified that it would cost $17,639.00 to reproduce the property new, that its depreciated reproduction cost was $15,464.00 and that the annual depreciation was estimated at $531.00.

The cost shown on applicant's books was stated to be low for the reason that considerable pipe had been deeded to it free of charge, and no values were included for lands devoted to water operations.

The annual expenses incurred in maintaining and operating the plant were examined by the Commission's auditing department and found extremely reasonable.

Objection by the consumers was made to the amount of this investment on the ground that a great portion of the expenses involved in installing this plant was caused by the extension of water mains over lands owned by this company, not yet occupied, in order to promote the sale of real estate. The testimony shows that, with the exception of one single tract, the whole of the subdivided lots reachable under this system have water available while only about one third of these lots are now occupied.

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While the present pipe system, due to the scattered location of residents in their tracts, is all necessary to serve the present small number of users, I am of the opinion that it would be unjust to compel these users to bear the whole burden of an investment intended to serve nearly three times the present number of consumers and made necessary only by the desire of the land company to promote sales.

The main opposition, however, to the granting of this application was caused by applicant's failure to adequately supply consumers for a short time during the dry season of 1913, and the future uncertainty of an ample supply being derived from its wells. These wells are located at the upper end of a small valley, which receives the surplus waters from a portion of the east slope of Mt. Tamalpais. The evidence as to the supply which may be obtained from these wells and the character of the waters from which this supply is drawn is very meager and unsatisfactory. During July and August, 1913, after two exceedingly dry seasons, when but one well had been installed, applicant admitted that not sufficient water could be pumped from this well to properly supply its users. Applicant has shown some diligence in developing what available supply it has, by constructing another well and has but recently disposed of its largest consumer, a moving picture concern, in order to conserve water for its other customers.

I am of the opinion that, aided by the heavy rains of the past season and with careful management, applicant will be able to supply a normal number of consumers throughout this year. It must be pointed out, however, that such ability to properly serve this district is but temporary, and that steps must be taken in the near future to provide a sure and ample supply from other sources.

While applicant shows that the rates applied for will not earn more than a reasonable return upon the money invested, I am of the opinion that a portion of this investment is ill advised, and the ability to properly serve this community has not been definitely proven and, as a consequence thereof, applicant can not expect to receive a full return at this time. There is no minimum monthly charge for water made by this company, payment being made only for the exact amount consumed. Inasmuch as a great many of the consumers are not permanent residents and use water but a portion of each month throughout the year, the revenue received from such consumers is very slight except in the summer season. This company must, however, at all times hold itself ready to serve, and some assured monthly payment must be made in order to guarantee service; while, on the other hand, if the consumer does not desire service in any particular month, he may avoid payment therefor upon proper notification to the company.

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The rules of this company provide that a consumer may discontinue service at the end of any month and thereafter may again have service without charge other than the water rate.

I submit herewith the following form of order:

ORDER.

Croker Land Company having made application to the Railroad Commission of the State of California for an order authorizing it to put into effect a minimum monthly rate of $2.00 for 4,000 gallons of water for the months of May, June, July, August, September, and October, and a minimum monthly rate of $1.00 for 2,000 gallons for the remaining months of the year, all excess water to bear the rate of 50 cents per 1,000 gallons; and a hearing having been duly held and the Commission being now fully apprised in the premises, it is hereby found as a fact by the Railroad Commission of the State of California that the rates now charged consumers for the delivery of water by Croker Land Company are unjust and unreasonable; and it is hereby further found as a fact that the rates set out in the following order are just and reasonable rates to be charged by Croker Land Company to its consumers for water.

Basing its order upon the foregoing findings of fact and the further findings of fact contained in the opinion preceding this order,

It is hereby ordered, by the Railroad Commission of the State of California, that the rates to be charged by Croker Land Company for water to its consumers shall be as follows:

> $1.00 per month for 2,000 gallons, or fraction thereof, excess water at the rate of 50 cents per 1,000 gallons.

The rates above established shall go into effect on the first day of September, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of August, 1914.

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DECISION No. 1735.

IN THE MATTER OF THE APPLICATION OF HUGHSON WATER COMPANY FOR PERMISSION TO SELL ITS WATER SYSTEM TO THE RIVERBANK WATER COMPANY AND OF THE RIVERBANK WATER COMPANY FOR PERMISSION TO ISSUE STOCK AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A WATER SYSTEM AT HUGHSON, CALIFORNIA.

Application No. 1239.

Decided August 14, 1914.

Held, Hughson Water Company authorized to sell, for the sum of $2,000.00, its water system at Hughson to the Riverbank Water Company, and the latter company granted authority preliminary to the issuance of a certificate of public convenience and necessity authorizing the operation of this system under a franchise to be obtained from the county of Stanislaus.

Held, Riverbank Water Company authorized to issue 43,998 shares of its capital stock of the par value of $1.00, to be sold at not less than par, to be used for the following purposes: (1) 13,998 shares to be exchanged for a like number heretofore illegally issued; (2) $12,000.00 for the acquisition of and improvements and betterments to the Hughson system; (3) $6,500.00 for improvements to Riverbank system; (4) $17,500.00 for complete cancellation of notes payable and $24,212.68 for complete cancellation of accounts payable, provided that none of such shares shall be issued unless all are issued and only for the purposes specified.

W. S. Hobart, for Riverbank Water Company.

C. L. Flack, for Hughson Water Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by Riverbank Water Company for authority to issue 80,000 shares of stock of the par value of $1.00 per share, for the purpose of paying for additions and betterments to its water system at Riverbank, Stanislaus County, for purchasing the property of the Hughson Water Company at Hughson, Stanislaus County, and for the purpose of enlarging the water plant at Hughson.

Applicant was organized on October 11, 1911, for the purpose of serving water to the unincorporated town of Riverbank. Applicant's petition states that it has an outstanding issue of stock composed of 20,000 shares of the par value of $1.00 each. At the hearing it developed, however, that applicant had legally issued 6,002 shares of its stock and had improperly issued, without the approval of this Commission, 13,998 shares. It appears, however, that these 13,998 shares were issued in ignorance of the provisions of the Public Utilities Act and with no willful intent to violate its provisions.

The stock of this company is chiefly held by Mr. C. L. Flack, Mr. J. W. Walker, and Mr. R. W. Hobart. They control this water

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company in connection with extensive land enterprises in Riverbank and vicinity.

The applicant states that the 20,000 shares of stock were sold at par, or $1.00 per share. The applicant also states that it has a floating indebtedness of $41,712.68, consisting of notes payable in the sum of $17,500.00 and accounts payable in the sum of $24,212.68.

The petition asks specifically for authority to sell the 80,000 shares of stock at par and to use the proceeds for the following purposes:

Acquisition of water plant at Hughson, Stanislaus county	$6,000 00
For general improvements, additions and betterments to Hughson plant	15,000 00
For additions to Riverbank system	6,500 00
For general improvements	12,500 00
For payment of notes and accounts payable	40,000 00
Total	$80,000 00

It appears that the water plant at Hughson is owned by Mr. C. L. Flack, who is also one of the chief stockholders of Riverbank Water Company. The testimony indicates that approximately $3,000.00 was expended on the Hughson system. The applicant proposes to pay $6,000.00 for this property. It is the intention of Riverbank Water Company to discard nearly all of this property and to put in a new system. The salvage value of the Hughson property is estimated at about $2,000.00, and I believe that a stock issue for its purchase would not be justified in greater amount.

It appears that the system to be installed at Hughson is somewhat larger than the size of the town now demands. I shall therefore recommend that instead of $15,000.00, as applied for, the sum of $10,000.00 be used for this purpose. If this should be found to be insufficient or if the growth of Hughson should make an additional sum desirable, this Commission will entertain an application for a further stock issue to enlarge the Hughson system.

The proposed improvements in the sum of $6,500.00 at Riverbank are desirable, and this is a proper amount to be expended. I shall recommend that a stock issue for this sum be authorized for this purpose.

The general improvements of $12,500.00 may wait further presentation when the necessity arises for the expenditures involved.

Applicant's request to issue stock in the sum of $40,000.00 to refund obligations requires some detailed consideration. These obligations are made up of notes payable in the sum of $17,500.00 and accounts payable in the sum of $24,212.68.

Of the notes payable, the sum of $2,500.00 is due the First National Bank of Riverbank. It is proper that stock be sold to liquidate this indebtedness which was incurred for proper capital purposes. The

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remaining portion of the notes payable, in the sum of $15,000.00 represents a note given by Riverbank Water Company to Riverbank Land Company for a parcel of land on which the well and pumping plant belonging to Riverbank Water Company are situated. This land was transferred upon the organization of the water company in 1911, and as the control of the land company and the water company rested in the same hands, the price of $15,000.00 was arbitrarily determined. While the records do not establish exactly the value of this parcel of land at the time of the transfer, I shall, for the purposes of the present issue, hold that the transfer of 1,000 shares of stock, or in lieu thereof $1,000.00, will satisfy this claim of $15,000.00 held by the land company.

This water company was formed by the persons in control of the land company for the purpose of benefiting the land company, and the transfer of this parcel of real estate could properly have been made to the water company at cost. I think it is clear that it cost the land company less than the sum allotted of $1,000.00.

The accounts payable in the sum of $24,212.68 are due to Mr. R. W. Hobart, Mr. C. L. Flack, and Mr. J. W. Walker, the chief stockholders of the applicant, and to the Riverbank Land Company, also controlled by Mr. Hobart, Mr. Flack, and Mr. Walker. I find there is included in this sum as accounts payable, $10,000.00 representing an estimated value of the franchise; $3,750.00 representing one year's salaries to Mr. Hobart, Mr. Flack, and Mr. Walker; and $3,642.47 representing money expended for operating expenses. The franchise cost $151.00, and this cost is cared for elsewhere. I find no warrant for the salaries of $3,750.00 allowed for Mr. Hobart, Mr. Flack, and Mr. Walker, in view of the fact that this company's gross income for the year 1913 was only $9,346.00. The sum due for operating expenses should properly be deducted. These deductions, amounting to $17,392.47, leave a balance as accounts payable of $6,820.21.

We therefore have as representing properly the cost of the Riverbank system:

Proceeds from sale of 20,000 shares of stock at par	$20,000 00
Proceeds from note held by First National Bank of Riverbank	2,500 00
Approximate cost of land transferred by Riverbank Land Company to Riverbank Water Company for well, pumphouse, etc., not to exceed	1,000 00
Accounts payable incurred for additions and betterments	6,820 21
Total	$30,320 21

I desire to call attention to the fact that this determination of approximate cost is but slightly under the appraisement of Mr. C. H. Loveland as made for the Commission, and as offered in testimony at the hearing in the sum of $31,731.00. Mr. Loveland estimated the "present" value of this system to be $28,754.00.

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I recommend that an issue of stock be authorized as against this item, amounting to $31,500.00.

We therefore have the following summary:

Stock issue as against approximate cost of Riverbank Water Company system	$31,500 00
Stock for acquisition of Hughson Water Company system	2,000 00
Stock for improvements at Hughson	10,000 00
Stock for additions and betterments at Riverbank	6,500 00
Total	$50,000 00

I recommend, therefore, that the applicant be authorized to issue sufficient stock in addition to the stock heretofore issued for the purposes aforesaid to bring its total issue of stock to $50,000.00. As the applicant has already issued $6,002.00 of stock, the present authorization will be for $43,998.00, represented by 43,998 shares of stock.

Riverbank Water Company has applied to the supervisors of Stanislaus County for a franchise to operate in Hughson. It appears that Hughson Water Company is now operating without a franchise. It is clear that Riverbank Water Company will give improved service, and I find, therefore, that public convenience and necessity require, or will require, that Riverbank Water Company exercise the rights or privileges which may be conferred by such franchise as may be granted by the supervisors of Stanislaus County when said franchise shall have been approved in a formal order by this Commission.

I find also that public convenience and necessity will be served by the sale of Hughson Water Company's plant at Hughson to Riverbank Water Company.

I have not gone into the question of the applicant's rates. I find that Riverbank Water Company is serving 285,000 gallons of water per day to the Santa Fe Railway and approximately 100,000 gallons per day to other patrons. The Santa Fe Railway pays 6 cents per thousand gallons and the other consumers are largely on a flat rate basis. The supply of water appears to be ample for all purposes in Riverbank. The improvements at Hughson include a new well designed to give complete and ample service in Hughson.

Affirming my conclusions as above, I find as a fact that public convenience and necessity require, or will require, the exercise by Riverbank Water Company of rights and privileges conferred by such franchise as may be granted by the county of Stanislaus to sell water at Hughson, Stanislaus County, when said franchise shall have been approved in a supplemental order by this Commission.

I therefore recommend the following form of order:

ORDER.

Riverbank Water Company having applied to this Commission for a certificate that public convenience and necessity require the exercise of

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such right or privilege as may be granted to Riverbank Water Company by the authorities of Stanislaus County to operate a water system at Hughson, it is hereby found as a fact that public convenience and necessity require and will require the exercise by Riverbank Water Company of such rights or privileges as may be granted by a franchise from Stanislaus County to operate a water system at Hughson, Stanislaus County, when such franchise shall have been approved in a supplemental order by this Commission; and Hughson Water Company having applied to this Commission for authority to sell its water plant at Hughson, Stanislaus County, to Riverbank Water Company,

It is hereby ordered that Hughson Water Company be given authority, and it is hereby given authority, to sell all of its property in Hughson to Riverbank Water Company; and

Riverbank Water Company having applied to this Commission for authority to issue 80,000 shares of its capital stock, and a public hearing having been held, and it appearing that the purposes for which the applicant herein proposes to issue 43,998 shares of said stock are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Riverbank Water Company be given authority to issue 43,998 shares of its capital stock of the par value of $1.00 per share.

The authority herein given to sell such stock is given upon the following conditions and not otherwise:

(1) Such stock as may be sold for cash shall be sold so as to net the applicant not less than the par value thereof.

(2) Thirteen thousand nine hundred ninety-eight shares of said stock shall be issued to the following parties in the amounts designated in lieu of stock in similar amounts illegally issued when said stock illegally issued shall have been returned to applicant's treasury and cancelled: A. C. Kohlman, 1 share; C. L. Flack, 6,665⅔ shares; J. W. Walker, 3,665⅔ shares; R. W. Hobart, 3,665⅔ shares; total 13,998 shares. The remaining 30,000 shares of stock herein authorized to be issued shall be used for the following purposes and not otherwise:

For the acquisition of all the property of the Hughson Water Company	$2,000 00
For additions and betterments and improvements of the water property at Hughson in the sum of	10,000 00
For additions and betterments to the properties of Riverbank Water Company at Riverbank, in accordance with details and specifications filed with this Commission in the application herein	6,500 00
For the complete cancellation of applicant's notes payable in the sum of	17,500 00
For the complete cancellation of applicant's accounts payable in the sum of	24,212 68

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(3) None of the shares of stock herein authorized to be issued shall be issued unless all of the shares of stock herein authorized shall be issued for the purposes as specified in this order, it being the intention that such adjustments will be made by the applicant with its chief stockholders and Riverbank Land Company; that the issue of the stock herein authorized will provide for the acquisition of the water plant at Hughson; the expenditure of $10,000.00 for additions and betterments and improvements on the water plant at Hughson; the expenditure of $6,500.00 for additions and betterments to the water system at Riverbank, and for the complete discharge of applicant's notes payable in the sum of $17,500.00, and its accounts payable in the sum of $24,212.68.

(4) Riverbank Water Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein given shall apply to such stock as shall have been issued on or before December 31, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of August, 1914.

DECISION NO. 1736.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE TWO MILLION FIVE HUNDRED THOUSAND DOLLARS OF ITS BONDS, BEARING INTEREST AT THE RATE OF 5 PER CENT PER ANNUM, TO BE ISSUED UNDER AND SECURED BY TRUST INDENTURE DATED NOVEMBER 1, 1909, EXECUTED BY SOUTHERN CALIFORNIA EDISON COMPANY TO HARRIS TRUST AND SAVINGS BANK AND LOS ANGELES TRUST AND SAVINGS BANK, TRUSTEES.

Application No. 350.

Decided August 15, 1914.

REPORT OF THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Good cause appearing, it is hereby ordered that Southern California Edison Company be and the same is hereby authorized to pledge the

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remaining bonds of the issue heretofore authorized in this proceeding, viz., 321 bonds of the face value of $1,000.00 each, bearing numbers 17,552 to 17,872, inclusive, to secure obligations of Southern California Edison Company, provided that before such bonds are actually issued, Southern California Edison Company shall have informed the Railroad Commission, in writing, concerning the number of bonds to be issued, and the purposes and the terms of the issue, and shall have received from the Railroad Commission written authority to issue said bonds.

This order is to be taken as an alternative to the fourth supplemental order issued herein on August 12, 1914, and the bonds pledged in accordance with this order shall not be again issued after having been returned to the treasury of Southern California Edison Company unless the Railroad Commission's consent shall first have been secured.

In all other respects the Commission's orders heretofore issued in the above entitled proceeding shall remain in full force and effect.

Dated at San Francisco, California, this 15th day of August, 1914.

DECISION NO. 1737.

TOWN OF ANTIOCH

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 400.

Decided August 15, 1914.

Respondent, citing certain minor errors appearing in the original decision, petitions for a rehearing in the above entitled case, and it appearing that respondent is actually receiving a return of 10 per cent upon the value of its Antioch plant, under the new rates established, instead of 8 per cent as originally intended, and there being no just grounds upon which a rehearing should be granted, application denied.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

OPINION ON APPLICATION OF DEFENDANT FOR REHEARING.

Pacific Gas and Electric Company has filed herein its petition for rehearing, and has set out therein a number of matters in which the company claims that the decision herein is in error. I shall address myself to such of the points urged as demand consideration.

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Defendant contends, first, that in estimating the local costs of distribution in the town of Antioch, this Commission made certain errors and omissions, amounting to $921.34, as follows:

(1) Defendant claims that this Commission was in error in using a connected load of 308 kilowatts instead of 286.88 kilowatts, thus reducing costs by	$247 31
(2) Defendant claims that this Commission failed to take into consideration losses in the local distribution system, amounting to	408 24
(3) Defendant claims that this Commission failed to include the energy used by it in its local office in Antioch for heat and light, making a difference of	59 36
(4) Defendant claims that an item of $325.05 was omitted by the Commission in determining the unit cost	325 05
Total	$1,039 96

Defendant states that certain reductions should be made from costs, consisting of an item of $37.91, by reason of the fact that the demand of the street lighting system will be 1 kilowatt less and the output 4,400 kilowatt hours less than shown in the evidence in this case and that an error in the computation of substation demand will result in a further deduction of $80.71, thus leaving a net addition to be made to the Commission's local costs amounting to $921.34.

Defendant's conclusion with reference to the connected load is erroneous, for the reason that defendant has failed to increase 63.5 horsepower by 10 per cent increased business, which would make the total connected load, as per defendant's computation, 291.4 kilowatt instead of 286.88 kilowatt, as claimed by defendant. It was necessary for the Commission to estimate the connected load in Antioch for the reason that the defendant did not present the same in evidence. In our revised computations we shall use 291.4 kilowatt, based on the information now supplied by defendant.

Defendant is correct in its claim that the distribution losses on the energy component of the final cost were omitted. The energy cost has accordingly been corrected to 1.68 cents per kilowatt hour in lieu of 1.611 cents claimed by defendant and 1.383 cents heretofore used by the Commission in this case. While the Commission is thus increasing the energy cost, I desire to call attention to the fact that this loss in distribution, amounting to 30 per cent of the substation output, is clearly excessive. While high losses might be expected in an old distribution system which had been gradually extended, this percentage of loss, where the evidence establishes the fact that the entire system has been rebuilt within the past two years, is obviously excessive. I am allowing the loss claimed in order to be entirely fair and to give the defendant time to reduce the losses to a reasonable amount.

In the Commission's revised computations, we shall allow the amount of 8,000 kilowatt hours for consumption in the defendant's local office

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in Antioch, increased for 30 per cent of losses, but distributed over the entire energy sold from the Antioch substation, instead of charging the entire amount to the consumers supplied within the town of Antioch, as defendant proposes to do.

Defendant is in error in claiming that the item of $325.05 was omitted. Defendant's error in this regard was undoubtedly caused by the fact that the engineers of defendant, in their calculations, have probably taken consumption in Antioch as 178,582 kilowatt hours instead of the large amount which the information now supplied shows to be correct.

The street lighting demand has been reduced to 6.5 kilowatt and the energy delivered to 24,000 kilowatt hours, in accordance with evidence presented by defendant subsequent to the decision herein.

Defendant is correct in claiming that there was an error in the computation of the substation demand, but this error was caused by an error on the part of defendant in reporting the "demand on substations" as "substation demands," the former item referring to the demand created by a distributing system on the substation and the latter referring to the demand of a substation on its source of supply.

In order that full justice may be done to defendant, the Commission has made entirely new calculations on the basis of information now available, which was not presented at the hearing, in addition to reviewing the evidence already presented. These computations show that the revenue which was estimated by the Commission was based on a sale of 178,852 kilowatt hours instead of 200,944 kilowatt hours, which sum it now appears should be used on the information supplied to the effect that 181,767 kilowatt hours were sold to local consumers during the year 1913, with an estimated increase in business of 10 per cent for 1914.

The net result of the new calculations, allowing for corrections on both sides, is shown in the following table:

TABLE No. 1.

Summary of Costs and Revenues.

Service	Cost	Revenue	Difference
General lighting	$9,742 24	$10,620 89	+$878 65
Power	1,154 89	1,033 56	—121 33
Street lighting	1,031 58	900 00	—131 58
Total	$11,928 71	$12,554 45	+$625 74

From the foregoing table it appears that the rates established by this Commission in this case will result in a revenue of approximately $625.74 in excess of the cost of service. After correcting the excess revenue for taxes, the net return on the *local* investment will be approximately 10 per cent instead of 8 per cent, which the Commission

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intended to allow. Accordingly, unless there are errors in other respects, the rate certainly should not be increased.

Defendant contends that the Commission omitted from its hydroelectric plant capital the South Yuba reservoir system, appraised by J. G. White & Company at $769,039.00. If this omission was improper, it is directly due to the defendant's own failure to include this item in its statement of hydroelectric investment filed with this Commission on March 30, 1914, which statement purports to be a summary of the entire investment of defendant, covering all branches of service. The evidence in this case does not show whether this item should or should not be allowed. If it should be allowed, it will easily be taken care of in the allowance as made, for the reason that the Commission has allowed approximately two million dollars for hydroelectric properties which are non-operative.

The allowance of 12 per cent for overhead expenditures is amply supported by the evidence, and it will not be necessary to go into this matter further.

Defendant contends that in determining the cost of power delivered at the substation, the Commission should not have considered the cost of the power produced by steam plants. All generating plants, whether they are driven by steam or water power, are obviously a part of the general production system and should be included in establishing an average production cost. The steam generating plants relieve or reenforce the transmission system, either by actually sending out energy over the transmission lines or by supplying local distribution centers directly, thus relieving the transmission system. If defendant's suggestion in this regard were followed, the result would be a decrease in the cost of power delivered at the Antioch substation, with a consequent decrease instead of an increase in the rates established for Antioch.

There is no merit in defendant's claim that the value allowed for the Electra system should be increased. Under the testimony of Mr. Ellis, much larger reductions than those made by the Commission would have been justified.

Defendant contends that the Commission erred in computing the allowance for depreciation on a sinking fund basis of 6 per cent instead of on a sinking fund basis of 3 per cent. The end to be attained is to allow a sufficient sum for depreciation, obsolescence, and inadequacy.

It is immaterial whether a larger principal and a smaller rate of interest be used or a small principal and a higher rate of interest. The evidence shows that the principal sum allowed by this Commission as depreciation annuity will itself be sufficient to take care of replacements due to wear and tear, obsolescence, and inadequacy, and that such interest as may accumulate will simply be in the nature of an additional allowance to cover possible abnormal replacements which may hereafter

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accrue. However, if defendant will submit proper and adequate proof to the Commission that its depreciation fund will be invested in such a manner or in such securities as will only yield 4 per cent, the Commission will gladly revise the method of reaching the total sum proper to be allowed as a depreciation annuity.

Defendant's contention that the Commission erred in apportioning general expenses on the investment basis is without merit. If this item were apportioned on the basis of the number of consumers, as suggested by defendant, the result would be that nothing whatsoever would be apportioned to the Spaulding investment, in which project defendant has invested in excess of ten million dollars. I see no reason to change the basis established by the Commission in its computations.

The defendant is in error in contending that the Commission made no allowance for uncollectible accounts. This item is allowed under the head of "General Expense."

Defendant is likewise in error in claiming that the Commission's allowance for taxes was not based on a percentage of gross revenue. The Commission estimated taxes on the gross revenue to which it found the defendant was entitled.

The subject of the allowance claimed for going concern value was fully covered in the decision, and there is no reason for going into this matter further.

After making the necessary changes, pro and con, in the calculations heretofore made, the net result is that the rates established by the Commission herein will yield a return on the *local* investment in Antioch of approximately 10 per cent instead of the 8 per cent which the Commission intended to allow. The return allowed on the production and transmission system is unaffected and remains 8 per cent.

The defendant has no just grounds for complaint. I accordingly recommend that the petition for rehearing be denied.

I submit herewith the following form of order:

ORDER DENYING PETITION FOR REHEARING.

Defendant in the above entitled case having filed its petition for rehearing, and careful consideration having been given thereto, and the Commission finding that there is no just ground for a rehearing in this case,

It is hereby ordered that said petition be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of August, 1914.

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DECISION NO. 1738.

COMMISSION'S INVESTIGATION IN THE MATTER OF THE WHOLESALE RATES OF THE CUYAMACA WATER COMPANY.

Case No. 631.

Decided August 18, 1914.

In consideration of the large number of informal complaints received alleging unjust and exorbitant demands made by respondent company under its interpretation of previous orders of the Commission, the following investigation was initiated. The main allegation of complainants brings into question the practice of respondent of charging various tracts, in addition to the regular contract rate, a charge of $1.25 for each structure thereon, for water delivered in bulk to the tract and distributed through a system owned mutually by the various consumers.

Held, Respondent directed to establish the following rates effective as of July 1, 1914, with adjustment of intervening payments: For consumers not served directly by respondent, but through a mutual distributing system, a minimum monthly payment of 75 cents each; when metered, per 1,000 gallons, 15 cents. That when payments are not made in accordance with rules, respondent may deal directly with individual consumers. Rules and regulations, previously approved, amended so as to include that the irrigation rates shall apply only to tracts of one half acre or more, and if subdivided, where there is not more than one dwelling to each one half acre.

D. G. Gordon, for the consumers along the flume.

R. S. Hall, for sixteen tracts in La Mesa.

Haines & Haines, for Lemon Grove Mutual Water Company and Fairmont Water Company.

A. H. Sweet, for Cuyamaca Water Company.

Walter Moore, for the Wheeler Tract.

James Darling, for the Marlet Tract, Water Right 1373.

F. M. Oliver, in propria persona.

Patterson Sprigg, for Granada Tract.

G. A. Campbell, for Waverley Tract.

F. E. Bozza, for Tract No. 303.

Alexander Wilson, for Block 8, Park View.

M. L. Knudtson, for Tract No. 335.

Stella M. Thorne, for Maxwell Water Tract.

K. B. Findley, for Block 7, Grable's Addition to La Mesa.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This investigation was initiated by the Commission subsequent to a large number of complaints received from various water consumers dealing with the Cuyamaca Water Company, who alleged unjust and exorbitant demands made by that company. The Cuyamaca Water

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Company in its reply to the complainants and to the Commission in all these matters, claimed to be following to the letter the provisions of the decision of the Railroad Commission of the State of California, No. 536, dated March 28, 1913, and the rules of the Cuyamaca Water Company, approved by the State Railroad Commission under date of August 27, 1913.

In the decision of the Commission above referred to, the rate for water to be furnished the La Mesa Mutual Water Company was denominated a domestic use for which the mutual company should make to the Cuyamaca Water Company a minimum monthly payment of $100.00 and should pay for all water used at the rate of fifteen cents per thousand gallons. Through a later action of the Commission, the rate to be paid by the Pacific Building Company, now succeeded by the Fairmont Water Company, was established at eighteen cents per thousand gallons.

In practically every one of the informal complaints referred to, the particular contention is in the interpretation of the following among the approved rules of the Cuyamaca Water Company:

1. (*c*) For consumers upon the distributing system (west of Eucalyptus dam), $5.85 per month per miner's inch maximum demand.

2. (*a*) All water used by irrigation consumers for domestic purposes incident to irrigation purposes are to be considered as part of the irrigation supply and no additional charge shall be made for the domestic character of such use.

2. (*b*) For each isolated building where water is piped from irrigation conduits and used not for purposes incident to irrigation purposes, but distinct therefrom, such as dwellings occupying one half acre or less, in one ownership or tenancy, schools, stores, blacksmith shops and livery stables, a monthly rate of $1.25.

8. The following distinction between irrigation and domestic use shall be the rule:

The irrigation rate will apply only to tracts of one half ($\frac{1}{2}$) acre or more in extent; such an acreage to include town lots in one tract where a sufficient number of lots in one tract collectively make one half ($\frac{1}{2}$) acre or more, under the ownership and control of one consumer, in cases in which there is not more than one house on said lots; provided the lands are cultivated for the purpose of making a livelihood by the raising of products from such lands for the market. The use of water in irrigation for ornamental purposes shall be considered domestic use.

8$\frac{1}{2}$. The rates will be ascertained in accordance with these rules. In case of default of payment of charges, irrigation or domestic, by one or more consumers of a group, the supply to such privately owned pipe line shall be diminished at the point of tapping of the company's mains, to make the water rates adopted herein agree with the total of the monthly payments actually paid.

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A public hearing was held in San Diego on July 29th, and on July 30th an inspection was made by the Commissioner of a large portion of the district involved. It developed during this hearing that there are some thirty distinct tracts which had formerly received water at an irrigation rate based upon the number of miner's inches or fractional parts, set out as the maximum use which would be allowed upon the entire tract by some contract or agreement between the Cuyamaca Water Company or its predecessors and the then individual owner of the separate tract. From the time of the Commission's decision until recently, the rate listed above in the rules of the company as 1 (*c*) has applied. However, recently, it appears that the Cuyamaca Water Company has made a survey of each of these tracts, and has decided its charge upon the area upon which water is found to be used at the rate 1 (*c*), and has added to that rate $1.25 for each structure found according to the provision above set forth and numbered 2 (*b*); and further gave weight particularly where properties had been subdivided and portions sold to actual residents, to provision 8 of the rules.

In practically every instance, it has been learned that while the Cuyamaca Water Company seeks to apply the full domestic rate where there is justification in the rules, it does not however make the individual delivery of water to the users considered separately that should undoubtedly be an essential part of their duty. It is possible to justify the application of a domestic rate, such as has been established by the Commission where the Cuyamaca Water Company not only transmits the supply in bulk for a community, but at its own expense provides distributing mains, service connections, and meters, and carries on business relations with the individual consumer.

In the case of the thirty tracts under consideration in this hearing, the consumers in obtaining water are not alone at the expense of payment to the Cuyamaca Water Company, but must as well meet the assessments of a mutual concern necessary to support a full distributing system, and to pay for the collection from the individuals the total amount of the water bills, which is finally transferred to the Cuyamaca Water Company in lump sum at no expense to this public utility company. The claim is made by the representatives of the greater number of these tracts that in obtaining a water right, so called, from the present utility or its predecessors, the use as an irrigation use has become established for all time, and that the subdivision of the land and the assignment of a proportional part of the water right to each subdivisional lot has not changed the character of use in such a way as to warrant any difference in the rate. This does not seem reasonable, as particularly in one tract ten acres was entitled to one half miner's inch. It is now subdivided and each lot contains about two ninths of an acre, and according to the testimony

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would be entitled to a maximum use of 144 gallons per day. This amount of water would, by comparison with the data obtained in many other places, not be sufficient for the needs of an ordinary family and the small garden and shrubbery that are an essential part of that family's comfort during the heat of the summer season in this vicinity.

It was admitted that this water is used for all purposes on lands in the residence section of the town of La Mesa, excepting possibly for a portion of the drinking water of the residents. Domestic use is never confined to the use of water for drinking alone, and if the amount that should be paid for water be based only upon the question of whether it is used for domestic or irrigation purposes, it is undoubtedly a fact that in many of the tracts under consideration a significant proportion of the water is being used for domestic purposes. The actual physical use of water in all these tracts is not substantially different from that in the district covered by the La Mesa Mutual Water Company and by the Fairmont Water Company, except in the proportion subdivided and dwelt upon, and it is my opinion that neither an irrigation rate based upon the miner's inch per annum maximum demand that may be reached but not exceeded, or a domestic rate based upon a survey of the individual uses and charged as though the water were delivered to each premise should apply.

There are twelve or more separate tracts, each holding or claiming to hold a contract entered into with the San Diego Flume Company who received water through the mains of the La Mesa Mutual Water Company, all the water being delivered through a single master meter for the use of those several tracts and the La Mesa Mutual Company's own direct consumers. The individual meters on each of these tracts are read monthly and the sum of water used by them is deducted from that passing through the master meter, the remainder being made the subject of payment, at the rate established, by the La Mesa Mutual Water Company. The sum to be paid by each tract to the Cuyamaca Water Company is collected by some individual on the tract and each tract makes further payment to the La Mesa Mutual Water Company for the use of the system, and the individuals on the tract, in addition to this, must meet the expense of distribution over the tract.

It seems undoubtedly a fact that there should be recognized a difference in the use on the several tracts under consideration from that under simple irrigation conditions. I do not believe that the Cuyamaca Water Company is entitled to charge the full domestic rate set forth in the decision of the Commission No. 536, excepting where dis-

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tribution is made by this company to each individual user. This rate is as follows:

> "For domestic use 25 cents per thousand gallons, with a minimum charge of $1.25 per month, the applicants, Cuyamaca Water Company, to furnish meters and cost of installation of all facilities, the consumer to furnish pipes upon his own premises."

This rate is clearly to be applied only where the Cuyamaca Water Company bears all expense to the property line of the individual consumer.

I will recommend that the Cuyamaca Water Company be allowed to collect for domestic users on all parts of its system except where delivery is made as required by the hereinbefore quoted portions of the Railroad Commission's Decisions Nos. 536 and 765, the following amounts for each domestic consumer:

> A minimum monthly payment during use of 75 cents. Where the water is measured to the consumer, the rate for water used shall be 15 cents per thousand gallons.

On each such tract as received consideration before the Commission at the time of the hearing upon Case No. 631, the Cuyamaca Water Company shall be allowed to charge the rate set forth above against all domestic consumers, and shall charge against the remainder of the tract the proper proportion by area of the irrigation rate otherwise chargeable to the entire tract. Should the group of consumers upon the tract not make collection of the total amounts properly due to the Cuyamaca Water Company, I will recommend that the company assume the privilege and duty of dealing directly with each consumer and may at its option install a meter at its own expense to determine the amount of water used by each individual domestic water user.

It is my understanding that an application for readjustment of all the rates of the Cuyamaca Water Company will be considered by the Commission in the near future.

I submit herewith the following order:

ORDER.

A hearing having been had herein and the matter having been submitted and the Commission being fully apprised in the premises, it is hereby found as a fact by the Railroad Commission of the State of California that the rate for water used by domestic consumers other than the La Mesa Mutual Water Company and the Fairmont Water Company, and where delivery is made direct to the individual consumers, was not established by the decisions of the Railroad Commission, Nos. 536 and 765, and that the rates demanded by the Cuyamaca Water Company in such cases have been unjust, and that certain of the rules and regulations established by the Cuyamaca Water Company

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are improper, and that the rates and regulations set forth in the order of the Commission herein are just rates and regulations, and basing its order on the foregoing finding of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California, that the Cuyamaca Water Company establish the following rates for domestic water consumers as defined by Rule 8:

In every instance where water is not delivered at the expense of the company to the property line of the individual consumer, to wit, minimum monthly payment during use, 75 cents.

When meters are installed, per 1,000 gallons, 15 cents.

It is further ordered that upon all tracts where distribution is effected by a group or association of consumers upon the tract, and payment made to the Cuyamaca Water Company in a lump sum, that amounts shall be charged for all domestic consumers as defined by Rule 8 at the rate set forth above, and the remainder of the tract pay the just proportional part by area of the irrigation rate otherwise established by the Commission's Decision No. 536, the sum of these amounts being the amount of the bill to be charged against such a tract entire.

It is further ordered that the Cuyamaca Water Company shall have the right to deal directly with the individuals upon each tract when payment is not made for the tract as a unit in accordance with the rules and regulations.

It is further ordered that Rule 8 of the rules and regulations of the Cuyamaca Water Company, as approved by the State Railroad Commission, and issued by the company on August 27, 1913, be amended to read as follows:

Definition minimum area to which irrigation rate shall apply.

The following distinction between irrigation and domestic use will be the rule: The irrigation rate will apply only to tracts of one half an acre or more in extent, such an acreage to include town lots in one tract, where these total a sufficient area and there is not more than one dwelling house on each half acre; less than one half acre use shall be deemed domestic use.

It is further ordered that this rate and amendment of the rules and regulations should be considered to apply upon and after July 1, 1914, and all payments made or to be made for use of water during the intervening period, shall be adjusted accordingly.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of August, 1914.

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Decision No. 1739.

IN THE MATTER OF THE APPLICATION OF CITY OF SANTA CRUZ FOR PERMISSION TO CONSTRUCT A STREET CROSSING AT GRADE ACROSS THE TRACK OF SOUTHERN PACIFIC COMPANY AT COTTONWOOD STREET, CITY OF SANTA CRUZ, SANTA CRUZ COUNTY, CALIFORNIA.

Application No. 1226.

Decided August 18, 1914.

Applicant applies for permission to construct Cottonwood street at grade crossing the tracks of the Southern Pacific Company, and it appearing that such crossing is desired only for the benefit of a recently opened tract of land, on which there are as yet no residents, and there being open at the present time several other crossings, both shorter and more convenient to the center of town, and it being the desire of the Commission to avoid all grade crossing whenever possible and when not necessary to public convenience and necessity,

Held, Application denied, without prejudice to its renewal, if, as suggested, the city is willing to close Coral street, now open, in consideration of the opening of Cottonwood street.

J. L. Johnston, for City of Santa Cruz.

George D. Squires, for Southern Pacific Company.

Report of the Commission.

Gordon, *Commissioner.*

On July 6, 1914, the city of Santa Cruz, through its city attorney, filed with the Commission an application in the above entitled matter. On August 4th a hearing was held at Santa Cruz, at which all interested parties were given a chance to appear and be heard. Cottonwood street, where the crossing is proposed, is at present a short street, about 380 feet long, lying between River street and the main line track of the Southern Pacific which runs between Santa Cruz and Los Gatos. The track is located in a general north and south direction, and to the north of this proposed crossing, Coral street, a distance of about 700 feet, is open; to the south, about 700 feet, Potrero street is open. Immediately west of the track is an undeveloped tract of land of more than 40 acres, belonging to L. T. McCutcheon and A. W. Turner. This tract of land has been subdivided by the owners and various streets laid out. Cottonwood street on this plat is shown as crossing the Southern Pacific track to join that part of Cottonwood street now open, which is on the east side of the railroad. With Mr. Turner and the attorney for Mr. McCutcheon as sole signers, a petition was presented to the city council of Santa Cruz to have a public crossing made so that Cottonwood would become a continuous street across the track of the Southern Pacific. Acting favorably on this the matter was

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taken up by the city council in an attempt to secure an easement from the Southern Pacific Company, and failing to do so, a hearing was held as before mentioned.

There is at present no one living on this tract of land, owned by Mr. Turner and his partner, and Mr. Turner frankly stated at the hearing that this crossing was desired by him solely for the purpose of selling property in this subdivision, as he considered the opening of Cottonwood street essential to the success of this project. There are at present two ways of approaching Mr. Turner's subdivision from the main business and residence districts of Santa Cruz. From Potrero street south, Amat street is open on the west side of the railroad track and vehicles can cross the track on Mora street, which is open. Quintana street parallels the track from Potrero street south, and the logical, and as it was proven, the shortest route from the main portion of Santa Cruz to this tract of land would lie via Quintana street over the Potrero street crossing and thence via Amat street to Mr. Turner's land. Another route, not as short as this one, but which is still shorter than the proposed route via Cottonwood street is from the city via River street to the Potrero street crossing and thence along Amat street to Coral and to this property. It was shown that Cottonwood would not be a main traveled street except for such people as purchased in Mr. Turner's subdivision, and that even then the shortest way would be via the other routes, as mentioned, and that there was absolutely no necessity for this crossing and public convenience would in no manner be served by its construction.

The Commission, in grade crossing cases, has at many times held that it would not grant permission for a highway to cross the tracks of a railroad at grade solely for the sake of developing any subdivision projects, promoting real estate, or increasing the price of property. It has held that it will grant such permission only when it is clearly shown that some real need for the crossing exists. It seems a fitting opportunity to again state the reasons that have led the Commission to take this position. Interstate Commerce Commissioner McChord recently stated that in a five-year period ending in 1909, 4,621 people were killed at grade crossings in the United States, and during the same period 8,830 were injured. The record since 1909 has undoubtedly been worse rather than better. It must, therefore, be recognized that the construction of each grade crossing carries with it a certain hazard to human life. Grade crossings can not now be entirely abolished, since neither the people nor the railroads have sufficient funds to do so, consequently this hazard must be assumed and the Commission must take it into consideration and balance it with the need of the public for the crossing in each case which comes under its consideration. It has been often argued that with a given amount of traffic across the

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track from one side to the other no additional hazard would be incurred by opening a few additional crossings. To show the fallacy of this argument it is necessary only to consider the case of a city where all the traffic crosses on one street and the same city with the track through it an open highway where vehicles and pedestrians can cross at will. In the first case, by having traffic concentrated at one point, the engine driver can and will use a certain amount of caution when crossing this street, and the users of the crossing will be induced to properly safeguard their own approach. Where the track is open, or where many crossings exist close together, it is impossible for an engine driver to take the same pains to avoid an accident, and the people who cross the track become careless and forgetful of the risk they incur and cross the track many times when it is not necessary to do so. There is still another phase of the matter to be considered.

New Jersey has recently passed a law prohibiting grade crossings under any circumstances. New York is making a comprehensive effort to secure the abolishment of all grade crossings within the state, and nearly every state has awakened to the danger of grade crossings and is making an effort to limit their number and to safeguard those which are installed. The larger cities are spending millions of dollars, in connection with the railroads, to secure the separation of grades within their boundaries. It is common knowledge that when a street is once opened and property along the street has changed hands partly on account of this fact, it is almost impossible to have that street closed. This means then, that ultimately a vast amount of money will have to be spent to construct either overhead or underground crossings at most of the streets which are open previous to undertaking grade separation. Based on past experience, each separation will cost in the neighborhood of $30,000.00. With this fact in view it is very apparent that it is an injustice to the railroad company and to the people from whom the railroad company secures its revenue, and who eventually pay its bills, to grant permission for any unnecessary grade crossings to be constructed. If the expense for such grade separations is to be borne either wholly or in part by the city or county in which the crossing is located, it is certainly no kindness to the city or county government to permit one to be built unless there is an absolute need for it.

It was developed at the hearing that there was a possibility of closing Coral street if Cottonwood street could be opened. Since the closing of Coral street and the opening of Cottonwood street would not increase the hazard to human life in this vicinity, but would merely transfer it from one point to another, I am of the opinion that this application should be granted providing Coral street is closed as a public highway; but that if Coral street is not so closed that there is no necessity for,

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and the public convenience will not be subserved by, the opening of Cottonwood street, and I believe that this application should be denied unless the crossing at Coral street be vacated.

I recommend the following order:

ORDER.

City of Santa Cruz, having made application for permission to construct a public highway crossing at grade across the track of Southern Pacific Company at Cottonwood street, in the city of Santa Cruz, Santa Cruz county, California, said crossing being shown on the map accompanying the application, and a public hearing having been held, and it appearing that at the present time said application should not be granted,

It is hereby ordered that said application be and the same is hereby denied without prejudice to its renewal if Coral street shall hereafter be closed by applicant across the track of Southern Pacific Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of August, 1914.

Decisions Nos. 1740 and 1741, grade crossings; not printed. See end of volume.

DECISION NO. 1742.

IN THE MATTER OF THE APPLICATION OF THE VERDUGO PIPE AND RESERVOIR COMPANY FOR CONSENT OF THE RAILROAD COMMISSION TO TRANSFER PROPERTY.

Application No. 1273.

Decided August 19, 1914.

REPORT OF THE COMMISSION.

This Commission having, in its order made on May 18, 1914, in Application No. 936, being the application of the city of Glendale that the Railroad Commission fix the valuation of certain water systems to be transferred to said city, found as a fact that $14,241.00 represents the fair compensation to be paid by the city of Glendale for certain property of the Verdugo Pipe and Reservoir Company specified in detail in said order, and the Verdugo Pipe and Reservoir Company having filed the present application asking for the authority of this Commission to sell said property to the city of Glendale, and the Commission being of the opinion that this matter does not require a hearing and that the application should be granted,

It is hereby ordered that Verdugo Pipe and Reservoir Company be, and it hereby is authorized to transfer to the city of Glendale all the

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real property, pumping plants and distribution system described in detail in Finding No. 4 in the order of this Commission made on May 18, 1914, in Application No. 936.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of August, 1914.

DECISION NO. 1743.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE NOTES.

Application No. 1198.

Decided August 19, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, in the order heretofore made in this application on July 18, 1914, authorized applicant to issue $240,500.00 face value of three-year 6 per cent promissory notes upon certain conditions therein specified, one of which is that should applicant desire to execute a deed of trust to secure said notes said trust deed shall not be executed until a form thereof has been submitted to the Commission and the approval of the Commission received thereto in the form of a supplemental order, and applicant having on August 17, 1914, filed as "Exhibit G" in this proceeding, a copy of a proposed deed of trust to secure $1,000,000.00 face value of notes, including the $240,500.00 face value heretofore authorized,

It is hereby ordered that this Commission hereby approves the form of the deed of trust filed in this proceeding, and marked "Exhibit G," upon the condition and with the clear understanding that none of the provisions contained therein shall be construed as authorizing applicant to issue any promissory notes thereunder, other than the $240,500.00 face value heretofore authorized in this proceeding without having first obtained the consent of this Commission.

The foregoing order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of August, 1914.

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Decision No. 1744.

GEORGE W. FRENCH ET AL.

vs.

OAKLAND, ANTIOCH AND EASTERN RAILWAY COMPANY.

Case No. 589.

Decided August 19, 1911.

Complainants allege that defendant, after entering into a contract in which it secured a certain tract of land, in consideration of which donation it agreed to construct a depot thereon, violated such contract and constructed its depot, serving the town of Lafayette, at a point 2,000 feet from the originally proposed site; that the present depot is inconvenient to the greater number of residents of Lafayette, and while there is a good road leading to the originally proposed site, there is a very poor road, subject to overflow waters during winter, running from the present depot.

Held, That as previously determined by the Commission, contracts, when they enter into cases of this nature, will be given considerable weight, more especially when they do not materially affect the general public convenience and necessity; that defendant entering into a contract to construct its depot on the originally donated site, subsequently entered into a second contract to construct a depot at a site more favorable to a recently opened tract of land on which there are at present only several structures. Defendant directed to construct a passenger shelter and freight shed at original site, within thirty days, and to stop all local trains on flag, provided that a hard surfaced wagon road shall be constructed from this station to the present county road.

Paul C. Morf, for Complainants.
Corbet & Selby, for Defendant.
Winfield Dorn, for the Moraga Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In this case a number of residents and property owners of the village of Lafayette, Contra Costa County, California, and located on or near the line of the defendant's railway, ask this Commission to issue its order directing the defendant to establish a station or stopping place for its trains west of the present station and on a certain piece of land donated to the defendant for this purpose. The complainants state that the location designated is the most convenient place for a station and for the accommodation of passengers and freight; that the station site is on level land, and will be connected with Lafayette by a level, straight and direct road sixty (60) feet wide; and that of the two hundred inhabitants of Lafayette, substantially all are in favor of this location.

The complainants state further that the station now maintained by the defendant is located at a point considerably farther from the village than the proposed stopping place, and that the present station is not as readily accessible and that the main road leading thereto is subject

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to overflow in winter. It is also claimed that the present station is located where it is, not in order to best serve the traveling public and the shippers of freight, but to give undue advantage to owners of a real estate subdivision adjoining the present station.

In its answer to the complaint the defendant denies all material allegations, including the one that it ever contemplated or agreed with one of the plaintiffs to "establish and maintain a station on the piece of real property described in the complaint, and to stop its trains thereat for the convenience and accommodation of the inhabitants of the said village of Lafayette." It alleges that the distance from the post office in Lafayette to the point of the proposed location of the station is three thousand and fifty (3,050) feet, and the distance from said post office to the present station is three thousand five hundred and fifty (3,550) feet by the nearest and most practicable routes. It is also maintained that the road to the present station is of a superior character as compared with the existing roads to the site advocated by the complainants.

The principal objections to a change in location are, however, made for operating reasons. The proposed depot site is near the westerly end of a 6° 40′ curve on an ascending grade to the west, of 1.3 per cent. The track crosses two hundred and fifty (250) feet to the east a fifty-five foot (55′) pile trestle, and four hundred (400) feet further to the east there commences a deep, thorough cut over three hundred (300) feet in length. These conditions are danger factors in the operation of trains, especially in high-speed operation and at night. The motorman in charge of a car or train on this curve will be able to have a clear view of the track for only a short distance.

A hearing was held in this case in Lafayette on August 8, 1914, when the complainants, the defendant and the Moraga Company were represented by counsel and a large portion of the people of Lafayette were present. Arguments were heard, testimony was taken, an inspection of conditions on the ground was made, and the case is now ready for decision. Subsequent to the hearing a written statement was received from the attorney for the Moraga Company, and this has also been given consideration.

The relevant facts are as follows: The existing Lafayette Station on the Oakland, Antioch and Eastern Railway is located in a southeasterly direction from the village of Lafayette, and consists of a siding approximately eight hundred (800) feet long, a small wooden passenger shelter shed, and a freight shed. The station is located on a tangent and on the immediate easterly end of a 6° 40′ curve, which describes an almost complete semicircle, and on a 1.3 per cent upgrade to the west. The distance to the Lafayette post office, over the most accessible road, is three thousand nine hundred (3,900) feet. The station is located on a

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tract of land which was deeded to the railroad company with the condition that a depot should be established at that point. The Moraga Company's new townsite of Lafayette adjoins the present depot. It is of evidence that this tract has been on the market for about one year and that only four buildings have been or are being erected, although it was stated at the hearing that a considerable number of lots have been sold. The land company has stated that it has expended over sixteen thousand dollars in improvements on this subdivision. There is nothing to show that the railroad company is interested, together with the land company, in the promotion of this tract.

The site desired by the complainants is located two thousand one hundred (2,100) feet westerly, measured along the track, from the present station. The disadvantages of its location, from the railroad point of view, have heretofore been described. The distance from the Lafayette post office over the county road and the road to be improved is three thousand two hundred (3,200) feet, or seven hundred (700) feet less than to the present station. The testimony given at the hearing was unanimous that the proposed site is more conveniently located for at least eighty (80) per cent of the patrons of the railroad from Lafayette and its neighborhood, and was given preference by practically all of the witnesses. Operating conditions, for the reasons as given by the company, are more unfavorable at the proposed than at the present site. The fact, however, that a considerable percentage of passengers getting on and off trains at Lafayette prefer to walk along the track in the direction to and from the proposed station site, rather than go over the roundabout road, constitutes an element of danger equally as important as the additional hazard introduced by having a stopping place on a curve. The danger of walking along the track at this place is increased by reason of the thorough cut referred to, through which people using this short cut will go. It will be difficult, if not impossible, to stop the patrons of this railroad from walking over this stretch of the track as long as the station remains where it is and a more convenient place is not established.

This case draws attention to an apparent tendency on the part of certain carriers which can not be too strongly condemned by the Commission. In this instance, the defendant has acquired two tracts of land within two thousand (2,000) feet of each other, and has agreed by contract to establish and maintain a station on each one of these tracts. It is, of course, bad railroad practice and wasteful to have stations closer together than they are needed, and here one of the places is admittedly an undesirable location for a station from an operating standpoint. After the land was secured—given to the company in this instance—by virtue of the promises made, the company proceeds to violate its contract by refusing to establish and maintain a station, and

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informs the people that this Commission is to decide where the station is to go, and that the Commission is not bound by the terms of any contract between a utility and an individual. A strong effort was made at this hearing to even prevent the introduction as evidence and its consideration by the Commission of the contract in question. In view of the specific denial regarding this contractual provision in the company's answer to the complaint, I believe it only fair that particular attention should be given this contract. A copy of the contract is in the record, and in it I find this clause: "It is hereby agreed, as part of the consideration for the conveyance of the above described land, that the second party shall construct and maintain a station on said land, and all regular trains shall stop thereat." To me, this provision is entirely clear and admits of only one interpretation. This contract matter is further complicated by charges of fraud, which need not here be considered. Suffice it to say that the contract as it stands was recorded upon the defendant's request.

It is true that the Commission must decide in cases like this one upon broad grounds of public convenience and necessity, and that it may be necessary to disregard contractual relations between interested parties if the general welfare so demands. But the Commission has stated in other decisions, and I will here repeat it, that consideration will certainly be given to such contracts, and that the Commission will be slow to disturb such agreements unless they are clearly contrary to the common good.

In this case I find as a fact that the defendant agreed to establish and maintain a station on what is known as the Ghiglione Tract, near engineer's station 521, on its railroad, and near and southeasterly from the village of Lafayette, Contra Costa County, California; and that public convenience and necessity will be served by the establishment of such a station. This station should be a passenger station and flag stop only, and only local trains should be required to stop for the taking on and discharge of passengers. The defendant should erect a wooden shelter shed at this place. The establishment of the station should be made contingent upon the construction of a good, hard surfaced wagon road from the station to the county road between Lafayette and Moraga Valley. I find, further, that no damage will be done to the Moraga Company by the establishment of the recommended station, as that company's subdivision can be made equally well accessible from either point. I recommend that this Commission's order shall not affect the location of the existing station.

I submit herewith the following form of order:

ORDER.

George W. French et al., on May 15, 1914, having filed with this Commission their complaint against the Oakland, Antioch and Eastern

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Railway, asking the Commission to issue its order directing the defendant to establish a station west of the present station and on a certain piece of land donated to the defendant for this purpose; and the defendant having filed with the Commission its answer to the complaint; and a public hearing having been held in this matter; and it appearing to the Commission that the public convenience and necessity will be served by the establishment of this station,

It is hereby ordered that the Oakland, Antioch and Eastern Railway shall, within thirty (30) days from the service on it of this order, establish a flag stop for all local trains and erect a shelter shed at what is known as the Ghiglione Tract, at or near engineer's station 521, on its railroad, and near the village of Lafayette, in Contra Costa County, California. This order shall be effective only on the condition that a good, hard surfaced wagon road be constructed from this station to the existing county road between Lafayette and Moraga Valley, and that evidence of its construction be presented to the Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of August, 1914.

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Decision No. 1745.

IN THE MATTER OF THE APPLICATION OF SONOMA VALLEY WATER, LIGHT AND POWER COMPANY TO ISSUE BONDS OF THE FACE VALUE OF THIRTY THOUSAND DOLLARS.

Application No. 755.

Decided August 22, 1914.

Supplemental order approving applicant's trust deed and authorizing the issue of $30,000.00 face value of bonds as previously authorized, proceeds to be used for additions and improvements to applicant's water system in the city of Sonoma. Sonoma City Water Works Company protests against the granting of such authorization on the grounds that it will enable applicant to extend its system into districts at present served by Sonoma City Water Works Company, and it appearing that both companies have been operating in the city of Sonoma prior to the effective date of the Public Utilities Act, and the Commission having no jurisdiction upon which to refuse its authorization to a bond issue, the sole reason for such refusal being that it would enable one of two companies already competing, to further extend its system, protest overruled.

M. R. Carey, for Sonoma Valley Water, Light and Power Company.

Mason & Locke, for Sonoma City Water Works Company.

Otto von Geldern, for individual protestants.

Report of the Commission.

THELEN, *Commissioner.*

SUPPLEMENTAL OPINION.

On September 30, 1913, this Commission, after a public hearing, made its order in the above entitled proceeding authorizing applicant to issue its bonds of the face value of $30,000.00 for the purpose of discharging and refunding the company's obligations in the total amount of $9,297.00 and of making improvements as specified in the order, not to exceed the sum of $18,000.00. The order provided that it should not become effective until Sonoma Valley Water, Light and Power Company should have filed with this Commission a form of trust deed or mortgage, satisfactory to the Commission, to secure the issue of the bonds authorized. A form of trust deed or mortgage to comply with the order was filed on August 10, 1914. I have examined the same and it meets the Commission's requirements.

In the mean time, Luisa V. Emparan and Maria V. Cutter, doing business as copartners under the name of Sonoma City Water Works Company, filed a protest against the issue of said bonds. Another protest was filed by a number of citizens of Sonoma, including Otto von Geldern, who appeared in behalf of these protestants. A public hearing on these protests was held in San Francisco on August 18, 1914.

It appears that protestant Sonoma City Water Works Company has for many years been engaged in the business of supplying water to the

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city of Sonoma and that Sonoma Valley Water, Light and Power Company, the present applicant, has also been engaged in the business of supplying water to consumers in Sonoma City for a number of years antedating the effective date of the Public Utilities Act. The Sonoma City Water Works Company, hereinafter referred to as the Vallejo Company, secures its water from the Vallejo place and has over three times as many customers as the applicant.

Although various other grounds were urged by protestants, the chief ground of protest arises from the fact that the Vallejo Company does not desire the applicant to further extend its system in the city of Sonoma in competition with it. The Vallejo Company accordingly urged certain matters which it claimed impaired the effectiveness and desirability of applicant's water system and applicant's witnesses presented similar testimony with reference to the Vallejo Company's water system. This Commission is not concerned in this proceeding with these contentions between these rival water companies, except in so far as they bear on the question whether applicant should be authorized to issue its bonds for the purposes specified in said order of September 30, 1913.

This is not a case in which a utility, after the effective date of the Public Utilities Act, for the first time asks authority to enter a city. Both companies were within the city of Sonoma and were doing business in competition prior to March 23, 1912. We are asked by one of these companies to deny to the other the means of securing the funds with which to make further extensions. The situation would be similar if the case were reversed and if the Vallejo Company should seek funds with which to extend its system and should be met by a protest on the part of the present applicant which might not desire to have the Vallejo Company extend its system in Sonoma.

As both companies were doing business in Sonoma prior to March 23, 1912, and as each company is in a position to supply water of good quality, I see no valid reason for denying to either the right to make extensions within the city limits.

It is not necessary in this proceeding to express an opinion as to the wisdom of having these two companies compete with one another in the city of Sonoma. The competition existed before this Commission secured its powers and is not the result of any act of the Commission.

While I naturally sympathize with a water company which has been in business many years and has had considerable difficulty and now faces competition in its field, this Commission can not decide its cases on sympathy but must be governed by established principles applicable thereto.

Applicant having submitted to the Commission a satisfactory deed of trust and there being no substantial merit in the protest, applicant

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should receive an order authorizing the issue of bonds in accordance with the Commission's order of September 30, 1913.

It appeared at the hearing that possibly it might be advisable to send one of the Commission's hydraulic engineers to Sonoma to examine the situation. On reflection, however, I have concluded that it is not necessary to do so. No report rendered by such engineer could change the essential facts which are shown by the evidence in this proceeding and on which the Commission must render its decision.

I submit herewith the following form of supplemental order:

SUPPLEMENTAL ORDER.

Sonoma Valley Water, Light and Power Company having submitted to the Commission a form of trust deed or mortgage to First Federal Trust Company to secure its proposed bonded indebtedness of the face value of $30,000.00, which form of trust deed or mortgage has been filed herein and marked "Exhibit B," and the Railroad Commission finding that said form of trust deed or mortgage is satisfactory,

It is hereby ordered that Sonoma Valley Water, Light and Power Company be and the same is hereby authorized to issue the bonds referred to in said order of September 30, 1913, for the purposes therein specified, to be secured by said trust deed or mortgage, on the following conditions and not otherwise, to wit:

1. Sonoma Valley Water, Light and Power Company shall account to the Railroad Commission for the issue of said bonds and the use of the proceeds thereof as specified in said order.

2. The authority hereby given to issue bonds shall apply only to such bonds as may be issued prior to January 1, 1915.

3. In all other respects said order of September 30, 1913, shall remain in full force and effect.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of August, 1914.

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Decision No. 1746, grade crossing; not printed. See end of volume.

DECISION NO. 1747.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING IT TO ISSUE, SELL AND DELIVER THIRTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 1057.

Decided August 26, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above entitled matter having, on August 15, 1914, made written request to this Commission that the above entitled application be dismissed,

It is hereby ordered that the above entitled application be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 26th day of August, 1914.

DECISION NO. 1748.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LONG BEACH FOR A STREET CROSSING AT GRADE ACROSS THE TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY, AT THE INTERSECTION OF AMERICAN AVENUE EAST AND AMERICAN AVENUE WEST AND FOURTEENTH STREET.

Application No. 1234.

Decided August 26, 1914.

Applicant, City of Long Beach, applies for permission to construct American avenue at grade across the tracks of the Pacific Electric Railway Company, at the intersection of Fourteenth street in said city, and it appearing that though there are two other crossings at comparatively short distances, American avenue is paved and better constructed than either of the others and far more suitable to public convenience.

George F. Kapp, city attorney, for the City of Long Beach.

Frank Karr, for the Pacific Electric Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application, by the City of Long Beach, for a street crossing at grade across the tracks of the Pacific Electric Railway Company, at the intersection of American avenue east and American avenue west and

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Fourteenth street, was filed with the Commission on July 13, 1914. Following the Commission's usual procedure in such cases, an examination of the crossing was made by the engineering department. The department reported that in its opinion public convenience, brought about by its construction, would not offset the increased hazard to human life, which it would create. It was pointed out by the engineering department that while this crossing is not particularly dangerous every grade crossing over a high-speed line increases to some extent the danger, and also that to the south of Fourteenth street, a distance of about four hundred (400) feet, Anaheim street is open, and to the north, a distance of about twelve hundred (1200) feet, Sixteenth street is open.

A hearing was held at Long Beach on August 10, 1914, when both the city of Long Beach and the Pacific Electric Railway Company were represented by counsel. Testimony from a number of interested parties was taken, and an inspection of the crossing was made. I am inclined to agree with the engineering department's report that every new grade crossing represents an additional point of danger, and that this particular crossing is not an absolute necessity to the city of Long Beach. An inspection of the crossing and the territory that would be served by it convinces me, however, that a paved street across the right of way of the Pacific Electric Railway Company at that point will be a great convenience to the large and growing population residing in that portion of the city. Fourteenth street, on both sides of the electric road, is now a better constructed street than either of the next crossings to the north and south. The street is, in fact, paved up to the tracks of the Pacific Electric Railway Company, the curb is put in, and there remains to be done only the paving between the rails to make the crossing complete. The city proceeded with this work after the railway company had granted an easement for the crossing of its right of way, fully expecting that the Commission would not withhold its consent to the crossing. The view of the Pacific Electric Railway Company's tracks in both directions is unobscured, and I do not find that this location is an especially dangerous one. It is not practicable to effect a separation of grades at this point. The right of way of the Pacific Electric Railway Company to the north and south of Fourteenth street is not fenced, and pedestrians in going from one side of American avenue to the other can, and do, cross the railway company's tracks at will. The construction of this crossing, therefore, may in a measure localize these crossing movements and result in an improvement of the situation as far as the danger to pedestrians is concerned. The crossing is inside the city limits of Long Beach, and will be an added convenience for such passengers using the local street cars as wish to get on and off cars at Fourteenth

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street and cross from one side of the track to the other. The Pacific Electric Railway Company has also made arrangements to stop all of its through and limited trains at this point.

In view of these facts I recommend that permission for the construction of this crossing be granted by the Commission and submit herewith the following form of order:

ORDER.

The City of Long Beach, a municipal corporation, having on July 13, 1914, filed with the Commission an application for permission to construct a street crossing at grade across the tracks of the Pacific Electric Railway Company, at the intersection of American avenue east and American avenue west and Fourteenth street, in the city of Long Beach, Los Angeles County, California; and the applicant having secured an easement from the Pacific Electric Railway Company, as of date February 10, 1914, granting permission to make said crossing at grade; and a public hearing having been held, and it further appearing that it is not reasonable nor practicable to avoid grade crossing with said tracks, and that the application should be granted subject to the conditions hereinafter specified,

It is hereby ordered that permission be hereby granted the city of Long Beach, Los Angeles County, California, to construct at grade the crossing hereinabove referred to, and as shown by the map and profile attached to the application, subject to the following conditions, viz:

(1) The entire expense of constructing the crossing, and the expense of its maintenance on each side of the tracks and up to within two (2) feet thereof, shall be borne by the applicant.

(2) The expense of maintaining the crossing over the tracks and to a distance of two (2) feet on each side thereof, shall be borne by the Pacific Electric Railway Company.

(3) Said crossing shall be paved, and of a class of construction equal to that used on Fourteenth street, in the city of Long Beach, Los Angeles County, California.

(4) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of August, 1914.

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DECISION NO. 1749.

IN THE MATTER OF THE APPLICATION OF THE CITY OF REDONDO BEACH, LOS ANGELES COUNTY, CALIFORNIA, FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF AN OVERHEAD CROSSING ACROSS THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND THE PACIFIC ELECTRIC RAILWAY COMPANY IN THE CITY OF REDONDO BEACH, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 1257.

Decided August 26, 1914.

Applicant, City of Redondo Beach, applies for permission to construct an overhead crossing over the tracks of the Atchison, Topeka and Santa Fe Railway Company and the Pacific Electric Railway Company to connect with a pleasure pier proposed to be constructed by said city; application granted, provided that applicant shall first file, for the approval of the Commission, plans and cost estimates of proposed structure.

Frank L. Perry, city attorney, for the City of Redondo Beach.

E. W. Camp, for the Atchison, Topeka and Santa Fe Railway Company.

Frank Karr, for the Pacific Electric Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In this application the city of Redondo Beach desires the authorization of the Commission for the construction of an overhead crossing across the tracks of the Atchison, Topeka and Santa Fe Railway Company and the Pacific Electric Railway Company, on the former's right of way, for the purpose of gaining access to a municipal pleasure pier which the city contemplates erecting on its water front. The situation is shown on a map filed with the application.

At the hearing in Redondo Beach, on August 11, 1914, the city and the railroads affected were represented. It developed that there is no opposition on the part of the railroad companies to the establishment of such an overhead crossing, provided the crossing will be of a safe and permanent construction. The city's pleasure pier project, it appears, however, is as yet only in its first stages of development. The site of the pier has not been definitely decided upon, and a bond issue will have to be voted by the city to provide the necessary funds for doing the work. With the exception of a preliminary pencil sketch, no plans and cost estimates have been made.

It is my opinion that the Commission will favor the construction of an overhead crossing across the tracks of the railroads in question, but that an order at this time should be contingent upon the filing with the

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Commission of plans, specifications and cost estimates, and the Commission's approval thereof.

I submit herewith the following form of order:

ORDER.

The City of Redondo Beach, Los Angeles County, California, having on July 27, 1914, filed with the Commission an application for permission to construct an overhead crossing across the tracks of the Atchison, Topeka and Santa Fe Railway Company and the Pacific Electric Railway Company, at a point immediately south of engineer's station 1079 plus 01.69, on the right of way of the Atchison, Topeka and Santa Fe Railway Company, in the city of Redondo Beach, as shown by the map and profile attached to the application; and it appearing that the application should be granted subject to the conditions hereinafter specified,

It is hereby ordered that permission be hereby granted the city of Redondo Beach, Los Angeles County, California, to construct an overhead crossing across the tracks of the Atchison, Topeka and Santa Fe Railway Company and the Pacific Electric Railway Company, at the point designated heretofore; provided that prior to the beginning of the construction the city of Redondo Beach files with this Commission, subject to its approval, plans, specifications and cost estimates of the proposed structure.

The Commission reserves the right to make such further orders relative to the location, construction, maintenance, operation, and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of August, 1914.

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DECISION NO. 1750.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE OF THE FACE VALUE OF FIFTEEN THOUSAND DOLLARS.

Application No. 1043.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE OF THE FACE VALUE OF NINETEEN THOUSAND DOLLARS.

Application No. 1067.

Decided August 26, 1914.

Applicant authorized to renew for a period of four months and for such additional periods as may be desired, aggregate renewals not to exceed one year, notes of the face value of $34,000.00 bearing interest at the rate of 7 per cent per annum.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Good cause appearing, it is hereby ordered that Los Angeles and San Diego Beach Railway Company is hereby authorized to issue its promissory note in the sum of fifteen thousand (15,000) dollars, bearing interest at the rate of 6 per cent per annum, payable four (4) months after the date of this order, to American National Bank of San Diego, or order, and its promissory note in the sum of nineteen thousand (19,000) dollars, bearing interest at the rate of 7 per cent per annum, payable four (4) months after the date of this order, to Citizens' National Bank of Los Angeles, California, in renewal of the notes payable respectively to American National Bank of San Diego and Citizens' National Bank of Los Angeles, referred to in this Commission's order of April 15, 1914, in the above entitled proceeding.

And Los Angeles and San Diego Beach Railway Company is hereby authorized to execute such renewals of said notes as may be necessary, on terms not more burdensome than those hereinbefore referred to, provided that the combined terms of said four-month notes and the renewals thereof shall not exceed one year from the date of this order.

The notes hereby authorized shall issue at not less than their face value, and Los Angeles and San Diego Beach Railway Company shall report to this Commission within ten days after the issue, the fact of the issue of said notes and the terms of their issue.

This order shall apply only to promissory notes issued prior to August 1, 1915.

Dated at San Francisco, California, this 26th day of August, 1914.

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DECISION NO. 1751.

ADOLPH BECKER

vs.

W. H. HOLABIRD, RECEIVER OF CALIFORNIA DEVELOPMENT COMPANY.

Case No. 551.

Decided August 26, 1914.

REPORT OF THE COMMISSION.

ORDER DENYING APPLICATION FOR REHEARING.

Defendant in the above entitled action having filed his application for rehearing on this Commission's order of July 28, 1914, and careful consideration having been given to the same, and it appearing that the matters therein presented were all fully considered before the Commission made its said order of July 28, 1914, and no good cause appearing why a rehearing should be granted,

It is hereby ordered that said application be and the same is hereby denied.

Dated at San Francisco, California, this 26th day of August, 1914.

DECISION NO. 1752.

F. W. WEEKS, PRESIDENT OF THE BOARD OF TRUSTEES OF THE CITY OF HOLTVILLE,

vs.

CALIFORNIA DEVELOPMENT COMPANY, AND W. H. HOLABIRD, RECEIVER OF THE CALIFORNIA DEVELOPMENT COMPANY.

Case No. 552.

Decided August 26, 1914.

REPORT OF THE COMMISSION.

ORDER DENYING APPLICATION FOR REHEARING.

W. H. Holabird, receiver of the property of California Development Company, one of the defendants herein, having filed his application for rehearing on this Commission's order of July 28, 1914, and careful consideration having been given to the same, and it appearing that the matters therein presented were fully considered before the Commission made its said order of July 28, 1914, and no good cause appearing why a rehearing should be granted,

It is hereby ordered that said application be and the same is hereby denied.

Dated at San Francisco, California, this 26th day of August, 1914.

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DECISION NO. 1753.

LOUIS J. IVEY

vs.

W. H. HOLABIRD, RECEIVER OF CALIFORNIA DEVELOPMENT COMPANY.

Case No. 573.

Decided August 26, 1914.

REPORT OF THE COMMISSION.

ORDER DENYING APPLICATION FOR REHEARING.

Defendant in the above entitled action having filed his application for rehearing on this Commission's order of July 28, 1914, and careful consideration having been given to the same, and it appearing that the matters therein presented were fully considered before the Commission made its order of July 28, 1914, and no good cause appearing why a rehearing should be granted,

It is hereby ordered that said application be and the same is hereby denied.

Dated at San Francisco, California, this 26th day of August, 1914.

DECISION NO. 1754.

IN THE MATTER OF THE APPLICATION OF OCEAN SHORE RAILROAD COMPANY FOR AN ORDER AUTHORIZING ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED THOUSAND DOLLARS.

Application No. 985.

Decided August 26, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above entitled matter having, on August 26, 1914, made written request to this Commission that the above application be dismissed,

It is hereby ordered that the above entitled application be and the same is hereby dismissed.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of August, 1914.

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DECISION NO. 1755.

W. D. ADAMS

vs.

EASTSIDE CANAL AND IRRIGATION COMPANY.

Case No. 309.

Decided August 27, 1914.

Respondent, applying for a rehearing, contends that the Commission's order directing it to take over and operate certain laterals was unlawful, and also that the rate of return allowed is unjust and unreasonable.

Held, That the order directing respondent to take over and operate the laterals was made on the understanding that respondent proposed to follow such procedure, though if such is not its intention, the rate established of $1.50 per acre per annum is unjust. A rate of $1.50 per acre per annum established, provided applicant shall take over and operate all laterals and $1.00 per acre per annum if it does not.

Held, That the canal owned by respondent was constructed for the purpose of serving a territory comprising 49,000 acres, that it would be unjust to compel consumers on the 11,000 acres now served to pay a rate permitting of a return on the full value of this canal, in view of which the present rates as established herein are considered just and reasonable. Application for rehearing denied.

James F. Peck and *F. J. Solinsky*, for Eastside Canal and Irrigation Company.

REPORT OF THE COMMISSION.

OPINION ON APPLICATION FOR REHEARING.

EDGERTON AND GORDON, *Commissioners.*

In the order heretofore made in these proceedings on March 31, 1914, this Commission established a rate of $1.50 per acre per year for water served by Eastside Canal and Irrigation Company to consumers. The Commission also established rules governing such service. This rate and these rules were established upon the assumption that the Eastside Canal and Irrigation Company would take over and operate the laterals through which the water is distributed from the main canal of the Eastside Canal and Irrigation Company to its consumers. The Commission was given to understand at the time of the hearing that the canal company proposed to take over these laterals and operate them. As incident to charging the $1.50 per acre per year rate the Commission accordingly directed the canal company to take over and operate these laterals.

In the petition for rehearing and also in the argument thereon, the canal company claims that the order of the Commission is unlawful in several particulars; among others, that the valuation upon which a return is allowed is incorrect, and also, that the Commission has no jurisdiction to direct the company to take over and operate the laterals. We desire, first, to consider these two contentions.

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Upon the record in this case we believe that the canal company is correct in concluding that this Commission can not, in this proceeding, direct it to take over and operate the laterals. This direction was made in the order because of the understanding given at the hearing that the company proposed to follow that procedure. The $1.50 rate was based upon that assumption. If the company does not take over and operate the laterals we believe that a different rate should be established.

The engineers of the Commission found the value of the main canal operated by the canal company at the time of the hearing to be $110,764.00 and the value of the laterals to be $58,500.00. The main canal was constructed in contemplation of supplying 49,000 acres with water. During the past few years approximately 11.000 acres only have been supplied with water, and we believe that at least these 11,000 acres will probably continue to use water in the future. This amount of land, however, is considerably less than the territory which the main canal was constructed to supply. We did not feel, and do not now feel, that the few thousand acres which are now receiving water should be expected to return a revenue upon the entire investment which was made to serve the 49,000 acres. The Commission accordingly found—assuming that the canal company took over and operated the laterals, that $110,000.00 represented the value of *all* the property upon which the present consumers should be required to return a fair revenue. The rate of $1.50 per acre per year was found to be a reasonable rate if the canal company operates the laterals, and we abide by that finding under those circumstances. If the canal company does not take over and operate the laterals, we find that a rate of $1.00 per acre per year is a just and reasonable rate to be charged by the canal company for the service from its main canal. In determining this rate we have taken into consideration all the elements, including water rights, which we believe should be considered. We have not allowed the exorbitant valuations which the canal company claims should be placed upon its water rights. There are no records showing the amount of water which the canal company has actually received, and the canal company admits that after years of litigation its water rights are no more secured to it than when the litigation commenced. In view of these facts we find that $1.00 per acre per year is a reasonable rate to be charged for water supplied from the main canal. We recommend that the Commission establish a rate of $1.50 per acre per year to be charged by the canal company, provided the canal company takes over and operates the laterals, and recommend that a rate of $1.00 per acre per year be established in case the canal company does not take over and operate the laterals.

In the petition for rehearing the Commission's attention is called to the fact that the canal company submitted an improper segregation

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of land in determining the lands which are regularly entitled to irrigation and those which are entitled only to surplus water. The order should be amended so as to correct this error.

The rules and regulations established by the Commission in the previous order were made on the assumption that the canal company would take over and operate the laterals. Provisions in certain of these rules apply to the method of operating the laterals. If the company does not take over the laterals the rules should be regarded as being amended by omitting those provisions which relate to the operation of the laterals. When these rules are put into practice it may be found that modifications are necessary to meet conditions peculiar to this company. It should be understood, therefore, that these rules may be, at any time, amended or modified as occasion therefor arises and the consent of this Commission is obtained to such amendment or modification.

We submit herewith the following form of order:

ORDER.

Eastside Canal and Irrigation Company having petitioned for a rehearing of the order heretofore made in these proceedings and an argument having been held thereon, the Commission hereby finds as a fact that if the Eastside Canal and Irrigation Company takes over and operates the laterals which are used to convey water from its main canal to its consumers, a rate of $1.50 per acre per year is a just and reasonable rate to be charged for water served through the laterals to consumers;

The Commission further finds as a fact that if the Eastside Canal and Irrigation Company does not take over and operate the laterals above mentioned, a rate of $1.00 per acre per year is a just and reasonable rate to be charged for water supplied from the main canal.

Basing its order upon these findings of fact and upon all other findings of fact in the original decision and in the above opinion,

It is hereby ordered, by the Railroad Commission of the State of California, that Eastside Canal and Irrigation Company put into effect the following rates for service of water:

1. One dollar and fifty cents per acre per year in case said company takes over and operates the lateral system above mentioned.

2. One dollar per acre per year in case said company does not take over and operate the lateral system above mentioned.

It is hereby further ordered, by the Railroad Commission of the State of California, that paragraph 2 of the order made herein on March 23, 1914, be and the same is hereby amended so as to include the following described real property, to wit: East quarter of lot 6 of section 19; lot 22 of section 21; west half of lot 30; east half of lot 30;

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west half of lot 31, and west quarter of lot 32, and east three quarters of lot 32 in section 21, township 7 south, range ten (10) east.

It is hereby further ordered, by the Railroad Commission of the State of California, that in the event said Eastside Canal and Irrigation Company does not take over and operate the lateral system above described, the rules and regulations heretofore established by the Commission shall be regarded as amended by omitting all provisions which relate to the operation of said lateral system.

It is hereby further ordered, by the Railroad Commission of the State of California, that the petition for rehearing be denied, and that except as modified by this order the original decision rendered herein stand.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of August, 1914.

DECISION No. 1756.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND PLEDGE OF ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS OF THE FACE VALUE OF ONE MILLION DOLLARS.

Application No. 1280.

Decided August 27, 1914.

Application of the Pacific Gas and Electric Company for permission to issue and pledge its general and refunding mortgage bonds of the face value of $1,000,000.00, said bonds to be pledged to secure either corporate or individual sureties which applicant proposes to file in connection with two suits now pending in the district court, granted, provided that such bonds shall be returned to applicant's treasury and not hereafter used for any other purposes until the Commission's authorization has first been secured.

C. P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for an order authorizing Pacific Gas and Electric Company to issue its general and refunding mortgage gold bonds of the face value of $1,000,000.00, and to pledge the same for the purposes hereinafter specified.

On May 1, 1914, applicant was entitled, under its general and refunding mortgage, to the issue, as between applicant and the trustee thereunder, of its general and refunding mortgage gold bonds in the aggregate face value of $1,908,193.00 in addition to all bonds heretofore

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authorized by this Commission. Applicant now asks authority to issue 1,000 bonds of Series A, numbered M30,431 to 31,430, inclusive, as collateral security for the purposes hereinafter specified, in lieu of the proceeds from the sale of a like amount of general and refunding mortgage gold bonds and preferred stock authorized by this Commission's Decision No. 1632, rendered on June 30, 1914, on Application No. 1188, for the reimbursement of capital expenditures. Applicant stipulates that during the time the bonds now to be issued are pledged, it will not reimburse its treasury out of the proceeds of the bonds and preferred stock authorized to be issued in Decision No. 1632, in excess of $3,586,661.00, this amount being $1,000,000.00 less than the amount by which applicant was authorized to reimburse its treasury.

Applicant desires to issue said bonds of the face value of $1,000,000.00 and to pledge the same to secure either corporate or individual sureties on two bonds which applicant desires to file in two suits now pending in the district court of the United States for the Northern District of California. One of these suits, *Pacific Gas and Electric Company* vs. *City and County of San Francisco,* Equity No. 27, was brought to enjoin the enforcement of Ordinance No. 2348 of the board of supervisors of the city and county of San Francisco, establishing gas rates for the year ending June 30, 1914. The other suit, bearing the same title, but numbered Equity No. 32, was brought to enjoin the enforcement of Ordinance No. 2349 of the board of supervisors of the city and county of San Francisco, establishing electric rates for the same period. In each of these cases the District Court on July 20, 1914, made its order providing that applicant herein should file a bond in a specified amount conditioned upon the repayment to its customers of such amounts, if any, as applicant may ultimately be directed by the court to pay in these suits. The amount of the bond in the first suit is $325,000.00, and in the second suit $375,000.00. The total of the two bonds is thus $700,000.00. Applicant must protect the surety or sureties on these bonds and desires to pledge for this purpose the bonds as to which this Commission's authorization is now requested.

Under existing conditions, it is very much to the advantage of applicant to pledge these bonds instead of trying to sell them and using the proceeds as security, or of using current funds for this purpose. Applicant has shown that it is entitled to issue these bonds, as between itself and the trustee, and has agreed that when the bonds are returned to the treasury after their function as collateral has been fulfilled, the bonds will not again be issued without the prior authorization of this Commission.

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I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission of the State of California for an order authorizing the issue of its general and refunding mortgage gold bonds of the face value of $1,000,000.00, for the purposes hereinafter specified, and a public hearing having been held on said application, and the Railroad Commission finding that the application should be granted,

It is hereby ordered that the Railroad Commission hereby authorizes the issue by Pacific Gas and Electric Company of $1,000,000.00 face value of principal of its general and refunding mortgage gold bonds, being 1,000 bonds of Series A, numbered M30,431 to 31,430, inclusive, maturing on January 1, 1942, bearing interest at the rate of 5 per cent per annum, payable semiannually, under and in pursuance of the terms of the mortgage or deed of trust heretofore, on December 1, 1911, made and executed by said Pacific Gas and Electric Company to Bankers' Trust Company of New York, corporate trustee, and Frank B. Anderson of San Francisco, individual trustee, on the following conditions and not otherwise, to wit:

1. Pacific Gas and Electric Company may issue said bonds only for the purpose of pledging the same to secure the surety, either corporate or individual, on the two bonds referred to in the opinion which precedes this order.

2. Pacific Gas and Electric Company shall, within ten days after the issue of any of the bonds hereby authorized, report to the Railroad Commission the fact and terms of the issue.

3. When any of the bonds, the issue whereof is herein authorized, are returned to the treasury of Pacific Gas and Electric Company, they shall not again be issued until the Railroad Commission's authorization therefor shall first have been secured.

4. During the time the bonds herein authorized to be issued are outstanding, Pacific Gas and Electric Company shall not reimburse its treasury from the proceeds of the general and refunding mortgage gold bonds and the preferred stock authorized to be issued and sold, by the Railroad Commission's Decision No. 1632, on June 30, 1914, in Application No. 1188, to an amount in excess of $3,586,661.00.

5. This order shall not become effective until Pacific Gas and Electric Company has paid the fee specified in section 57 of the Public Utilities Act, as amended.

6. The authority hereby given shall extend only to bonds issued on or before November 1, 1914.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of August, 1914.

DECISION No. 1757.

CITY OF LONG BEACH

vs.

SOUTHERN PACIFIC COMPANY ET AL.

Application No. 1063.

Decided August 28, 1914.

Complainant, City of Long Beach, in its endeavor to compel the removal of the warehouse of the Long Beach Milling Company from what is claimed to be the residence portion of the city, petitions the Commission for an order permitting the Southern Pacific Company to abandon and tear up a spur track serving said warehouse. Southern Pacific Company and Long Beach Milling Company protest against the granting of such order.

Held, That it is not the desire of the Commission to stand between a city and the exercise of its lawful powers when at the same time it can safeguard the interest of shippers and the railroad; as in this case, it merely being the desire of the city to remove the warehouse from its present location, application granted, provided that such order shall not become effective until complainant shall have established and exercised its rights to compel the removal of such warehouse and spur.

Frank Karr, for Pacific Electric Railway Company.

D. H. McDonald, for San Pedro Lumber Company.

W. I. Gilbert, for Southern Pacific Company.

George F. Kapp, for the City of Long Beach.

E. F. Hahn, for the Long Beach Milling Company.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

The substance of this complaint is that the Southern Pacific Company maintains and operates a spur track extending from the west side of Alamitos avenue, in Long Beach, California, eastward to, or near to, Cerritos avenue, a distance of about three blocks, and to the place of business of the Long Beach Milling Company. We are asked to order the railroad company to remove said spur track.

The Southern Pacific Company filed an answer and the Long Beach Milling Company and others now being served by this spur track appeared and protested against the granting of the city's application.

Evidence was introduced by the city in an attempt to establish that

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this spur track was not needed for the service of the Long Beach Milling Company or any other persons or corporations, and further, that it was an ugly, inconvenient, and unnecessary incumbrance in what is properly a residence portion of the city. On the other hand, the milling company and the railroad introduced evidence for the purpose of showing that this spur was needed and useful to the railroad and the milling company, and that it was situated in a business portion of the city.

It seems that the city of Long Beach, prior to the instituting of this action before the Commission, ordered the railroad company to remove this track, which order was met by the declaration on the part of the railroad company that it could not remove this track without the consent of the Railroad Commission, whereupon the city filed this action.

The only power of this Commission in the premises is that which is found under General Order No. 36, paragraph 2 of which reads as follows:

> "It is further ordered that no railroad corporation shall move or abandon any depot or station building, or abandon an agency at any depot, or take up or discontinue the use of any siding, spur, or other track upon which passengers or freight have been received or discharged, without first having made application to and received the consent of this Commission; provided, however, that this section shall not apply to temporary tracks, nor to the extension or alteration of tracks which shall continue to serve the purposes for which they were constructed, nor to tracks which have been constructed under special contracts, wherein time limits or other conditions affecting their permanency are specified."

Hence, the only action possible by the Commission is to give or refuse its assent to the taking up or discontinuance of the use of this spur.

I believe that this Commission should interfere as little as possible with the functions of a city in determining whether or not any portion of its area should be established as a residence or business district, and therefore no general order of this Commission should be allowed to stand in the way of the exercise of the city's power to determine for itself whether any given business should be operated within its limits or the location for the operation of such business.

On the other hand, it is the undoubted function of this Commission to see that no shipper is unjustly injured by the withdrawal from him of transportation facilities such as those furnished by spur tracks, etc. In this case it developed at the hearing that the main purpose of the city in this proceeding was to bring about the removal of such business as is now being conducted by this milling company from this particular portion of the city. I believe this Commission should take such action as will not interfere with the exercise of the city's powers and which

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at the same time will safeguard the interests of the shipper and the railroad company.

I therefore recommend that an order be made authorizing the railroad company to discontinue the use of this spur and to remove the same when the city shall have established its right to remove either said spur track or the business establishments now being served thereby, and further, that said city shall have exercised such right.

I submit herewith the following form of order:

ORDER.

Application and complaint having been made herein by the city of Long Beach against the Southern Pacific Company et al., wherein the maintenance and operation of a certain spur track in the city of Long Beach is complained against, and a public hearing having been had and the Commission being fully apprised in the premises,

It is hereby ordered, by the Railroad Commission of the State of California, that permission is hereby given to Southern Pacific Company and Southern Pacific Railroad Company to discontinue the use of and to take up that certain spur or siding or track, extending from the west side of Alamitos avenue, in Long Beach, California, eastward to, or near to, Cerritos avenue, a distance of about three blocks, and to the place of business of the Long Beach Milling Company, said tracks extending along and over blocks 98 and 99 of the Alamitos Beach townsite in said city of Long Beach and across Bonita avenue, a public street of said city; provided, that this permission shall only become effective when the city of Long Beach shall have established and exercised its right to remove or cause to be removed said spur or track or the business establishments now being served thereby.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of August, 1914.

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Decision No. 1758.

THOMAS MONAHAN, AS MAYOR OF THE CITY OF SAN JOSE,

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 477.

IN THE MATTER OF THE RATES, SERVICE AND EXTENSIONS OF PACIFIC GAS AND ELECTRIC COMPANY IN ITS SAN JOSE DISTRICT —ON THE COMMISSION'S OWN INITIATIVE.

Case No. 550.

Decided August 28, 1914.

Complaint of the City of San Jose attacks the reasonableness of respondent's rates for all classes of service and also alleges that respondent has refused to make a number of desired extensions, that its minimum rate of $1.00 per month is excessive, and that it discriminates in requiring a deposit for service connections. Commission's case upon its own initiative includes in this investigation the entire San Jose area served by respondent, thereby making such adjustments as are directed effective throughout this entire district, excepting the city of Alviso, which city has not as yet turned over control of its utilities to the Commission.

Held, After thorough investigation and valuation of respondent's property serving this district in connection with which, by consent of all parties, evidence submitted in connection wth the *Antioch* case, in so far as applicable, is considered herein, the following rates are established to become effective twenty days from date: General lighting, first 20 kilowatt hours per month, 7 cents per kilowatt hour; next 330 kilowatt hours per month, 4 cents per kilowatt hour; over 350 kilowatt hours per month, 3 cents per kilowatt hour; street lighting, 10 cents per year per watt connected. Owing to the abnormal conditions existing during the last several years which materially affected the consumption of energy for power purposes, no adjustments directed affecting this class of rates with the exception of certain changes as regards the application of the present schedule.

Held, That as generally recognized by rate fixing authorities, a utility is entitled to a reasonable minimum rate sufficient to cover interest on cost of service connection and depreciation thereon. That the present minimum of $1.00 is not unreasonable, though as in a particular case cited, where energy is used only during a few months of the year, a rule may be incorporated permitting the disconnection of the meter, thereby eliminating such minimum charge during the period of nonuse.

Held, That as held by the United States Supreme Court, a utility accepting a franchise from an incorporated city, permitting of the construction of its lines over all streets of such city, by constructing such lines over a portion of the streets, thereby obligates itself to extend service to any portions of such city where it may be desired. Sufficient allowance made in valuation of respondent's property to cover all desired and estimated extensions and respondent is directed to make all such extensions within the limits of incorporated cities herein affected at its own expense. That the Commission has jurisdiction to compel utilities to extend any reasonable distance irrespective of the provisions of the Civil Code limiting such extensions to 100 feet. That such statutes being inconsistent with the provisions of the Public Utilities Act has been repealed by section 87 of such act in so far as it affects territory over which this Commission's jurisdiction extends. Respondent directed to make all extensions desired in unincorporated territory at its own expense, at least up to the amount allowed for this purpose, provided, that when it may deem such desired extensions unreasonable, it may apply to the Commission for relief from this particular provision of the order.

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John W. Sullivan, for City of San Jose.

C. P. Cutten, for Pacific Gas and Electric Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

The above entitled proceedings, which were consolidated for hearing and decision, place in issue the rates, service and extensions of Pacific Gas and Electric Company in its entire San Jose district, in so far as the Railroad Commission has jurisdiction.

The complaint in Case No. 477 alleges, in effect, that for more than ten years defendant has had a monopoly of the business of supplying electric energy to the city of San Jose and the inhabitants thereof; that defendant has been charging the rate of 8 cents per kilowatt hour for residence lighting purposes, 6 cents per kilowatt hour for commercial lighting purposes and 4 cents per kilowatt hour for power, and that each of said charges is unfair and unreasonable; that defendant has been charging the sum of $1.00 per month as a minimum rate for electric energy and that this charge is unfair and unreasonable; that defendant has been discriminating in charges as between different patrons in the city of San Jose and that there are many portions of the city of San Jose containing residences and other inhabited buildings to which defendant has refused to supply electric energy and that such action on the part of defendant is unfair and unreasonable. The complaint asks that this Commission investigate each of said charges and thereupon make its order declaring each of said rates, rules and actions to be unfair and unreasonable and establishing reasonable rates and regulations.

The answer denies the material allegations of the complaint and in particular denies that any of defendant's rates are unfair or unreasonable, denies that the minimum rate is excessive or unfair or unreasonable, denies any discriminations as to rates, and alleges that defendant "has never refused to supply electricity to the inhabitants of the city of San Jose or refused to construct its distribution lines to their premises and furnish electricity therefrom, where the business that could be secured from such lines would be sufficient to warrant or justify the cost of constructing and operating the same and in furnishing and supplying electricity therefrom." The answer was thereafter amended, on request of defendant, so as to ask this Commission to establish just and reasonable rates for all classes of service in the San Jose district.

Prior to this amendment, the Commission, on its own initiative, instituted its investigation in Case No. 550, into the rates, service and extensions of Pacific Gas and Electric Company in the company's entire San Jose district.

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Public hearings in the above entitled proceedings were held in the city of San Jose on February 16, 1914, and in the city of San Francisco on March 26 and 27 and May 6, 1914. At the hearing of February 16, 1914, the city of San Jose withdrew the charge of discrimination in rates. Defendant has filed its brief, and the cases have been submitted and are now ready for decision.

The San Jose district of Pacific Gas and Electric Company, hereafter referred to as the Electric Company, includes the incorporated cities and towns of San Jose, Los Gatos, Mountain View, Sunnyvale and Alviso, the unincorporated towns of Saratoga, Campbell and Edenvale, the incorporated town of Santa Clara, which is served by a municipal electric plant, and unincorporated territory contiguous and adjacent to the foregoing cities and towns.

At elections held pursuant to chapter 40 of the acts of the extra session of the legislature of 1911, the cities of San Jose, Los Gatos and Sunnyvale voted to confer upon the Railroad Commission the powers vested in them over their public utilities. This Commission's authority with reference to rates, service, and extensions accordingly extends to the entire San Jose district, with the exception of the cities of Mountain View and Alviso, and the order in this case will apply to the entire district, except these two cities.

I shall now consider the issues in these proceedings under the following heads:

(1) Extensions;
(2) Rules and regulations;
(3) Minimum rate;
(4) Deposit charge;
(5) Rates.

1. Extensions.

The evidence in these proceedings shows that in quite a number of cases, both within and without the limits of the city of San Jose, defendant has refused to extend its lines for the service of electric energy unless applicant should agree to advance the cost of the extension. The arrangement frequently insisted upon by the electric company has been that the applicant should advance the entire cost of the extension, not including the cost of the transformer, and that the money so advanced should be repaid in the amount of 20 per cent of the monthly bills for service from the extension. The electric company has claimed ownership in all these extensions and has not paid interest on the moneys advanced by the applicant. I shall consider, first, extensions within the limits of incorporated cities and towns and then extension in unincorporated territory.

In so far as this question concerns extensions within the limits of incorporated cities and towns, the duty of the electric company seems

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to have been clearly established by the Supreme Court of the United States in the case of *Russell* vs. *Sebastian,* decided on April 6, 1914. In this case, it will be remembered, the city of Los Angeles and other California municipalities claimed that by reason of the amendment of section 19 of article XI of the constitution of this state, adopted on October 10, 1911, utilities using the public streets, including electric utilities, could not make further extensions without complying with such rules and regulations as the cities might under their organic laws establish. The various gas and electric companies of the state earnestly contended that this position was erroneous and that under the constitutional grant of a franchise made by section 19 of article XI, as it stood prior to the amendment, any such public utility which had started construction work in a city prior to October 10, 1911, had secured the right to extend its system throughout all the public streets of the city. The utilities claimed that the state's offer was an offer to grant the use of all the streets within a city and that upon the commencement of construction in any of the streets, the offer was accepted as to all the streets. This contention of the utilities was upheld by the Supreme Court. On this point, Mr. Justice Hughes, in rendering the decision, used the following language:

> "We think the offer was intended to be accepted in its entirety as made, and that acceptance lay in conduct committing the person accepting to the described service. The offer was made to the individual or corporation undertaking to serve the municipality, and when that service was entered upon and the individual or corporation had changed its position beyond recall, we cannot doubt that the offer was accepted: *City Railway Co.* vs. *Citizens' R. I. Co.,* 166 U. S. 557, 568; *Grand Trunk Railway Co.* vs. *South Bend,* 227 U. S. 544, 555, 556. In this view the grant embraced the right to lay the extensions that were needed in furnishing the supply within the city."

After thus establishing the right of the utility to use all the streets of the city, Mr. Justice Hughes addresses himself to the correlative duty on the part of the utility to serve all the inhabitants. Referring to this point, Mr. Justice Hughes says:

> "This construction of the constitutional provision is the only one that is compatible with the existence of the duty which it was intended, as it seems to us, that the recipient of the state's grant should assume. *The service, as has been said, was a community service.* Incident to the undertaking, in response to the state's offer was the obligation to provide facilities that were reasonably adequate. (Citing cases). It would not be said either that a water company or a gas company, establishing its service under the constitutional grant, could stop its mains at its pleasure and withhold its supply by refusing to extend its distributing conduits so as to meet the reasonable requirements of the community. But this duty and the right to serve, embracing the right under the granted privilege to install the means of service, were correlative."

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The rule thus established by the Supreme Court of the United States is equally sound in law and in common sense. It applies to all classes of utilities which receive a franchise authorizing them to use all the streets of a city, such as the constitutional franchise which has been granted by the state itself to all electric, gas and water companies which started construction in this state in the streets of any city prior to October 10, 1911. Each of these classes of utilities, as well as any other utility which has heretofore secured or may hereafter secure a franchise authorizing it to use all the streets of any of our California cities, is under the correlative duty of giving service to all the inhabitants of the city. While it is possible that it may be necessary in some of our cities having wide territorial extent, to modify this general rule in some respects, the present case is clearly one for the application of the general rule. I accordingly recommend that the order in this case contain a provision to the effect that the electric company shall, at its own cost, make extensions to serve all persons desiring electric service in the city of San Jose and in the other incorporated cities in the San Jose district over which this Commission has jurisdiction in this respect. The rate in this case will be established on the theory that the service is community-wide, and extensions which may be unprofitable in themselves will be taken care of in the rate so established.

In my opinion, the provisions of section 629 of the Civil Code, making it the duty of gas and electric companies "upon the application in writing of the owner or occupant of any building or premises distant not more than 100 feet from any main, or direct or primary wire, of the corporation, and payment by the applicant of all money due from him" to "supply gas or electricity as required for such building or premises," do not in any way mitigate against the general rule established by the Supreme Court of the United States, certainly not in cities which have voted to confer upon the Railroad Commission their powers over public utilities. Section 23 of article XII of the constitution of this state, as amended on October 10, 1911, clearly contemplates that the legislature should provide a complete plan for supervision and regulation of public utilities in this state by the Railroad Commission, except in so far as the incorporated cities and towns of the state might retain their vested powers. The Public Utilities Act, which was enacted in pursuance of this plan, seems to give to the Railroad Commission full and exclusive power in the matter of extensions, at least in unincorporated territory and in incorporated cities and towns which have conferred upon the Railroad Commission their powers over public utilities. Without pausing to quote, I desire to refer to sections 30, 31 and 36 of the act. Section 36 specifically gives the Railroad Commission power, after hearing, to direct public utilities to make any extension which the Commission may find ought reasonably to be made. Section 87 expressly

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repeals all acts or parts of acts inconsistent with the provisions of the Public Utilities Act. A limitation of the duty of an electric utility so that the utility is obligated to make extensions of only 100 feet, is obviously inconsistent with the provisions of the Public Utilities Act authorizing the Railroad Commission to direct that extensions be made whenever the Commission shall find that they ought reasonably to be made. I am accordingly of the opinion that section 629 of the Civil Code has been repealed by the Public Utilities Act as to all portions of this state except incorporated cities which, from time to time, have not voted to confer upon the Railroad Commission the powers vested in them over gas and electric utilities; that as to all such territory the general rule announced by the Supreme Court of the United States applies, and that the Railroad Commission has the power to enforce such rule.

Considering now the situation in unincorporated territory, I am not sure whether the rule announced by the Supreme Court of the United States would apply to general franchises granted by the county authorities authorizing the use of all the public streets and highways of the county. However, it is not necessary to pass on this question in this case for the reason that, entirely irrespective of this general principle, the Railroad Commission has the power, under the provisions of section 36 of the Public Utilities Act, and other sections, to direct that extensions be made in proper cases. As the electric company claims the right to serve the entire San Jose district, this is not a case of an extension into territory beyond that which the utility has hitherto claimed to serve. A number of the outside extensions referred to in the evidence in this case have already been made by the electric company since the hearing. In estimating the value of the property of Pacific Gas and Electric Company in this case, I am allowing the entire value of all the estimated extensions which have been asked for and which may reasonably be expected in the near future. Under these circumstances and on the facts as shown in the evidence in these proceedings, I find that the electric company should make, at its own cost, all the extensions in outside territory which were referred to in the evidence in this case and which have not already been made, and should apply the same principle to such new extensions as may from time to time be asked for in outside territory in this district. If, in any case, the electric company considers it unreasonable to make the extension at its sole cost, it may draw the matter to the attention of the Railroad Commission, whereupon the Commission will determine whether any good reason exists for varying from the general rule herein established. It must be borne in mind in this connection that the Commission is in this case allowing over $191,000.00 for extensions and betterments in the year 1914, so that the electric company may construct such extensions at its own expense at least up to the amount so allowed.

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2. Rules and Regulations.

It developed at the hearing that the electric company has not filed with the Commission its rules and regulations for service in the San Jose district. A utility's rules and regulations vitally affect its rates, and in accordance with the provisions of section 14 of the Public Utilities Act, all such rules and regulations affecting territory under this Commission's jurisdiction should be filed with the Commission. The Commission is now sending to the various gas and electric companies drafts of regulations to govern the filing by such companies of all their rates, rules and regulations. If the electric company desires to postpone the filing of its rules and regulations for the San Jose district until the Commission has adopted its proposed circulars, I see no objection to such procedure, but I desire to draw the attention of the electric company to the fact that there may be grave doubt whether in the mean time it can enforce any rule or regulation which it has not filed with the Railroad Commission, as prescribed by the Public Utilities Act. I desire to point out in this connection that the electric company has heretofore been called upon by the Commission to file all its rules and regulations, so that under the provisions of section 14 (*b*) of the Public Utilities Act, the utility can probably enforce no rules or regulations in territory over which this Commission has jurisdiction, other than such rules or regulations as it may have filed as directed by the Commission.

3. Minimum Rate.

The city of San Jose objects to the minimum charge of $1.00 per month which has been established by the electric company.

All rate fixing authorities concur in the conclusion that the establishment of a reasonable minimum is reasonable and proper. Even if a consumer uses but little electric energy, the utility is entitled to a return on the installation which it has been compelled to make to serve him, as well as depreciation thereon. The expense of reading meters, repairing meters, making collections and keeping accounts is practically as large for the man whose bill is $5.00 as for one whose bill, irrespective of the minimum, would be only fifty cents. It seems only reasonable and proper that the consumer should bear his fair share of this expense, which is incurred for his benefit, irrespective of the amount of electric energy consumed by him. On the facts of this case, I find that the established minimum of $1.00 per meter per month is reasonable, and shall accordingly recommend that it be not disturbed.

The city of San Jose complained particularly because of the necessity of paying a minimum of $1.00 per month in connection with a certain meter in the city hall for electricity which was used for heating purposes during the winter months and which was not needed during the other portions of the year. Electric utilities generally establish a rule

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or regulation to the effect that in such cases the meter may be disconnected and that the minimum charge shall not apply during the period of disconnection. The electric company will undoubtedly include such rule or regulation among those which it will file with this Commission, whereupon the city can have this meter disconnected during such months as the meter may not be in use.

4. Deposit Charge.

The city of San Jose complained of discrimination in the matter of the collection of deposits before the rendition of service and drew attention to two newspaper men, one of whom was compelled to make the deposit while the other received his service without deposit. These men were both practically in the same position. Without at this time going into the question whether a deposit charge can be justified, I desire to draw the attention of the electric company to the necessity, if any deposit charge is demanded, of adopting and enforcing a rule which will be applied uniformly without any discrimination. In preparing its rules and regulations, I desire to direct the attention of the electric company to the fact that while the Supreme Court of this state has never squarely decided that a deposit charge is unlawful, it has several times intimated that in localities in which section 629 of the Civil Code is operative, the gas or electric company must make the extensions therein referred to, on compliance with the conditions set forth, which conditions do not include the payment of a deposit. See *Thompson* vs. *San Francisco Gas and Electric Company,* 20 Cal. App. 142, and *Fair* vs. *Home Gas and Electric Company,* 13 Cal. App. 589.

5. Rates.

The principal complaint in these cases, apart from the question of extensions, involves the reasonableness of the electric company's rates for all classes of service in the San Jose district. The lighting rates now existing for service in this district are as follows:

Schedule No. 100.

RESIDENCE LIGHTING.

First 30 kilowatt hours per month	8¢ per kilowatt hour
Next 70 kilowatt hours per month	7¢ per kilowatt hour
Next 100 kilowatt hours per month	6¢ per kilowatt hour
Next 200 kilowatt hours per month	5¢ per kilowatt hour

Minimum monthly charge, $1.00 per meter.

This schedule applies also to current consumed by electric irons, toasters, sewing machine motors and various electrical domestic appliances.

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Schedule No. 104.

COMMERCIAL LIGHTING.

First 150 kilowatt hours per month	6¢ per kilowatt hour
Next 300 kilowatt hours per month	5¢ per kilowatt hour
Next 600 kilowatt hours per month	4¢ per kilowatt hour
All over 1,050 kilowatt hours per month	3¢ per kilowatt hour

Minimum monthly charge, $1.00 per meter.

This schedule applies also to current consumed by fan motors, coffee mills, water heaters and other electrical appliances not classified as power.

For reasons which will hereinafter appear, it will not be necessary to set forth the power rates.

In considering the question of rates, I shall divide the subject, for convenience, into the following subheads:

(*a*) Basis of return;
(*b*) Rate of return;
(*c*) Depreciation;
(*d*) Cost of service;
(*e*) The rate;
(*f*) Effect of rates.

(*a*) BASIS OF RETURN.

By agreement of all the parties, the evidence introduced in Case No. 400, *Town of Antioch* vs. *Pacific Gas and Electric Company*, was considered in evidence in this case, in so far as applicable. By agreement with the electric company, the Commission, in the *Town of Antioch* case, undertook to arrive at an average cost of generating and transmitting electric energy over the electric company's entire system in this state. For this purpose, this Commission, in the *Town of Antioch* case, considered the value of the electric company's entire property used in the generation and transmission of both hydroelectric and steam generated energy. While the electric company, in its brief in this case, has made objection to certain of the calculations used in determining this cost of electric energy, I find that the cost as found in the *Town of Antioch* case is at least fair and reasonable to the electric company and that said cost is a just and reasonable cost to be used in so far as applicable in the present proceedings as representing the cost of generating and transmitting electric energy.

It becomes necessary in these proceedings to consider carefully all the elements which enter into the distribution of electric energy in the San Jose district. The electric company filed in these proceedings as Exhibit No. 1, in Case No. 477, a statement showing the book value of all physical property owned by it and devoted to the service of electric energy in the San Jose district. The total value was ascertained by

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adding to the J. G. White & Company appraisal as of September 31, 1911, which appraisal was introduced in evidence in the *Town of Antioch* case, the actual cost of additions and betterments made during the years 1912 and 1913, making the necessary adjustments and deducting property abandoned in 1913. Mr. G. R. Kenny, the Commission's assistant engineer, prepared for the Commission an appraisal of the electric properties of the electric company in the San Jose district, showing the estimated reproduction cost and the estimated depreciated reproduction value of the physical property. Mr. Kenny's report shows that the following property should be added to the property claimed by the electric company:

(*a*) Substation equipment $10,655 00

This item represents the value of a bank of 1,000 kilowatt hours transformers transferred to the San Jose district from Oakland during the latter part of 1913, which item did not appear in the additions and betterments shown in the electric company's statement for the reason that the charge for the equipment was not passed through the company's auditing department until after January 1, 1914.

(*b*) Distribution transformers $41,520 88

This item represents distribution transformers which were not found by J. G. White & Company and not included in the company's statement of additions and betterments.

(*c*) Real estate $6,187 50

This item represents three quarters of the value found by Mr. W. M. Wells, this Commission's real estate expert, for lot 3, block 2, range 5, in San Jose, fronting 137.84 feet on Fourth street. This property is used as a warehouse and material yard. One quarter of its value should be charged to the gas business.

The electric company's steam plant and steam plant buildings in San Jose and the land on which they are located have been included in the cost of generation and transmission of electric energy. The value which was allowed for the land when this matter was investigated in the *Town of Antioch* case is the full amount claimed in the J. G. White & Company appraisement and is considerably in excess of the value placed on the property by the San Jose Realty Board and by Mr. W. M. Wells, this Commission's real estate expert. Nevertheless, as the amount involved is not sufficient to make any material difference in the cost of generating and transmitting electric energy, as found in the *Town of Antioch* case, it is not necessary to go into the matter further at this time.

In ascertaining the proper value to be assigned to the property in the San Jose district used in the distribution of electric energy, the items of all departments' capital and supply department will be prorated on

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the investment basis. An allowance of $25,000.00 will be made for materials and supplies and two months' estimated operating and maintenance expenses for working capital.

The chief difference between the J. G. White & Company estimate and the value herein found, apart from the items which this Commission will allow in addition to those found by J. G. White & Company, will be found in the overhead percentages. On the evidence in this case and in the *Town of Antioch* case, the percentages used by J. G. White & Company are clearly too high. The necessary modification in this respect must accordingly be made in the J. G. White & Company estimate.

An allowance of $191,101.49 will be made for construction capital for the year beginning January 1, 1914, to the end that the electric company's entire construction expenditures during 1914 may be allowed. This allowance will be sufficient to take care of all extensions, both within and outside of the limits of incorporated cities in this district, which extensions may reasonably be expected within the year 1914.

The following table shows the proper allowance to be made for investment in tangible items and the depreciation annuity for the San Jose district:

TABLE I.

Investment and Depreciation Annuity—San Jose District.

	Capital	Depreciation annuity
1. Real estate	$8,961 50	
2. Buildings	9,213 00	$81 44
3. Substation equipment	131,114 28	2,389 78
4. Poles and fixtures	226,542 96	9,732 91
5. Wire and insulators	165,404 04	1,068 76
6. Line switches, etc.	5,884 66	159 97
7. Underground conduits	23,811 15	82 01
8. Underground cables	13,789 96	15 44
9. Transformers (pole type)	191,931 06	5,217 56
10. Transformers (underground)	5,331 84	144 98
11. Street lighting	66,829 39	1,816 73
12. Overhead services	38,157 66	1,639 36
13. Underground services	6,866 05	125 15
14. Electric meters	94,337 94	2,564 54
15. Tools and appliances	1,786 69	135 55
16. Horses, wagons and harness	2,294 93	174 11
17. Automobiles, motorcycles, etc.	13,933 38	2,471 73
18. Furniture and fixtures	3,651 81	99 27
19. Equipment on consumers' premises	2,661 95	72 36
	$1,012,504 25	$27,991 60
20. All departments' capital (prorated)	32,652 25	696 02
21. Supply department (prorated)	1,262 92	10 29
22. Working capital (including materials and supplies)	37,020 40	
23. Construction capital	191,101 49	4,649 18
	$1,274,541 31	$33,347 09

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In addition to the items shown in the foregoing table, the electric company claims an allowance for intangible items, grouped under the general heading of "going concern value."

The electric company introduced no evidence whatsoever as to what it actually cost to develop the business in the San Jose district or what expenses have actually been incurred for preliminary organization. Nor did the company introduce any evidence as to any expenditures which have actually been incurred for any other item entering into the so-called "going concern value." The company contented itself by introducing an exhibit showing a hypothetical estimate of what it might cost to develop the business under conditions and circumstances varying widely from those under which the business was actually developed. As this Commission said in the *Town of Antioch* case, but slight attention will be given to hypothetical estimates of this character, particularly when the actual amounts expended are available.

For all that appears from the evidence in this case, the electric company has charged excess rates which have heretofore far more than taken care of any cost of developing the business and of the other items which enter into the vague, catch-all phrase of "going concern value." The evidence shows that up to 1912, the electric company was charging the top price of at least 10 cents per kilowatt hour for energy used for lighting purposes in this district, and that during 1912, the rate was reduced to a top rate of 8 cents per kilowatt hour. The evidence in this case shows that this lighting rate is in itself excessive and that it must be reduced. Hence, it is a fair inference that the cost of developing the business has already been more than covered by the rates heretofore charged.

Nevertheless, in order to be absolutely sure that an injustice is not being done to the electric company and to take care of possible errors, an additional sum of $25,000.00 will be allowed in estimating the basis of return. The Commission will hereafter expect, however, that if utilities intend to claim any allowance for intangible items, they will present the evidence of what has actually been spent, in so far as it is possible to secure the same. It must be distinctly understood that the evidence in these proceedings does not show that as much as $25,000.00 should be allowed for these purposes, that the Commission is allowing the sum only out of an excess of caution so as to be sure that no injustice is being done to the electric company and that it may become necessary hereafter in further inquiries affecting the San Jose district to reduce or eliminate this sum.

After a careful consideration of all the evidence in this case, bearing on the basis on which a return should be allowed, I find that the fair value of the property of Pacific Gas and Electric Company, used and

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useful in the distribution of electric energy in the San Jose district, is not to exceed the sum of $1,299,541.31.

(*b*) RATE OF RETURN.

For the reasons given in this Commission's decision in the *Town of Antioch* case, I find, on the evidence in these proceedings, that a rate of return amounting to 8 per cent of the valuation hereinbefore established is at least a fair and reasonable return. This rate will be used in these proceedings.

(*c*) DEPRECIATION.

I find that the amount specified in Table No. 1, under the head of "Depreciation Annuity," being the sum of $33,347.09, is a fair and reasonable amount to be allowed to the electric company to take care of items such as depreciation, obsolescence and inadequacy.

(*d*) COST OF SERVICE.

The following table shows the local cost of service in the San Jose district:

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TABLE II.

Local Cost of Service—San Jose District.

	Substation costs				Distribution costs			
	Direct current	Street lighting	Alternative current	Total substations	Street lighting	Distribution	Service	Total distribution
Investment	$68,004 97	$14,374 49	$100,545 86	$182,925 32	$88,954 60	$842,161 35	$185,500 04	$1,116,615 99
Interest	5,440 40	1,149 96	8,043 67	14,634 03	7,116 37	67,372 91	14,840 00	89,329 28
Depreciation	1,367 91	289 14	1,952 18	3,609 23	2,387 97	21,829 63	5,520 26	29,737 86
Maintenance	1,979 86	418 49	2,927 24	5,325 59	1,383 89	9,573 31	3,272 70	14,229 90
Total fixed charges	8,788 17	1,857 59	12,923 09	23,568 85	10,888 23	98,775 85	23,632 96	133,297 04
Operation	7,086 63	1,497 95	10,477 65	19,062 23	5,538 58	23,924 14	14,486 54	43,949 26
General and administrative expense	1,920 65	405 99	2,836 31	5,162 95	1,610 29	13,242 92	4,604 63	19,457 84
Total operating expense	9,007 28	1,903 94	13,313 96	24,225 18	7,148 87	37,167 06	19,091 17	63,407 10
Total cost of service	17,795 45	3,761 53	26,237 05	47,794 03	18,037 10	135,942 91	42,724 13	196,704 14

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The distribution of investment shown in Table No. 2 is obtained from Table No. 1 as follows:

The total substation investment, amounting to $182,925.32, is item 3 of Table No. 1, plus an investment pro rata of items 15 to 23, inclusive, and also a pro rata of items 1 and 2.

Similarly, the components of total substation investment are obtained by adding to the capital chargeable directly to alternating current, direct current and street lighting, the pro rata of the above general items.

The distribution investment amounting to $842,161.35 comprises items 4 to 10 inclusive of Table No. 1, plus a pro rata of items 15 to 23 inclusive. Street lighting distribution capital, $88,954.60, is derived by adding to item 11 of Table No. 1, a pro rata of items 15 to 23, inclusive.

The service investment is made up of items 12, 13 and 14 plus a pro rata of items 15 to 23, inclusive.

Interest is calculated at the rate of 8 per cent.

Depreciation is derived from Table No. 1 in the same manner as the capital. Depreciation on the construction capital is based on the average depreciation obtaining on the entire local capital.

The amounts chargeable to maintenance have been obtained by using the actual cost for 1913 and adding thereto 16 per cent, in accordance with the estimated capital additions. All pro ratas for maintenance have been on the investment basis.

The amounts allowed for operation are the amounts actually spent for this purpose in 1913, with certain additions, as follows:

General expense, increase 5 per cent.
Substation expense, increase 5 per cent.
Distribution expense, increase 8 per cent.
Street lighting expense, increase 6 per cent.
Service expense, increase 12½ per cent.

The general and administration expense shown in Table No. 2 consists of such expenses as are chargeable to the business as a whole, including taxes, fire and casualty insurance and a pro rata of the administration expenses of the entire company, distributed on an investment basis.

(c) THE RATE.

After a careful consideration of the evidence in these proceedings, I find as a fact that the present lighting rates for domestic, commercial and street lighting are excessive and discriminatory, and I find that the following rates are fair and reasonable rates to be charged by Pacific Gas and Electric Company for general lighting, municipal street lighting and special street lighting in that portion of the San Jose district

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in which this Commission has jurisdiction to establish electric utility rates:

TABLE III.

Schedule "A." General Lighting Rates.

Applicable to all lighting installations served from the San Jose district distribution system. (Including all lamp socket appliances).

C.R.C. Classification: Service No. 1121: Rate 0021: Serial 140811—1.

First 20 kilowatt hours per month, 7 cents per kilowatt hour.
Next 330 kilowatt hours per month, 4 cents per kilowatt hour.
Over 350 kilowatt hours per month, 3 cents per kilowatt hour.
Minimum charge $1.00 per meter per month.

Schedule "B." Municipal Street Lighting Rate.

Applicable to all street and other public outdoor lighting.

C.R.C. Classification: Service No. 5235: Rate 0500: Serial 140811—2.

Ten cents per year per watt connected.

Schedule "C." Special Street Lighting Rate.

Applicable to tower lighting.

C.R.C. Classification: Service 5345: Rate 0500: Serial 140811—3.

Six cents per year per watt connected.

The following table shows the increases in business which have been assumed in arriving at the foregoing rates:

TABLE IV.

Item	Year	General lighting	Street lighting
Sales	1913	10.6 per cent	25 per cent
	1914	10 per cent	8 per cent
Connected load	1913	----------	----------
	1914	10 per cent	8 per cent
Consumers	1913	----------	----------
	1914	10 per cent	0 per cent

The increases shown above for 1913 are the actual increases in revenue over 1912, and the data for 1914 is estimated from the evidence introduced in these proceedings.

With reference to the power rates, I have been forced to the conclusion that there is not sufficient data available upon which to establish at this time a proper power rate for the San Jose district. The conditions affecting agricultural power were abnormal during the year 1913, due to excessively light rains during the season of 1912–1913, and again abnormal in 1914, due to the heavy rains in the season of 1913-1914. Because of these abnormal conditions during the past and the present year, it is not possible to predict accurately the effect of any rates which might be established at this time for agricultural power service. Industrial and miscellaneous power rates should not be disturbed until the entire power situation, including agricultural service, can be adjusted. The evidence now at hand does not substantiate the electric company's claim that the agricultural rates are too

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low. Nevertheless, for the reasons which have been stated, I recommend that no changes be made in the power rates at the present time, except in the matters hereinafter set forth. It will undoubtedly be necessary, however, hereafter to remove existing discriminations between classes of power service, and particularly to remove from the small consumer excessive burdens which he is now carrying.

The following changes should be made at the present time in power schedules:

1. The present agricultural and other power schedules of rates should be made applicable to all installations of one horsepower and over, instead of 5 horsepower and over, as at present, provided that in the case of new consumers the electric company shall have the option of supplying either single phase or 3-phase current to power installations of less than 3 horsepower.

2. The consumer should have the option of combining power service to installations of less than 3 horsepower with lighting, at lighting rates and at the lighting minimum, or of requiring separate power and lighting meters for each service at the rates and minimum charges applicable thereto.

3. The minimum charge to single motor installations of 25 horsepower and over and to installations of more than one motor of 3 horsepower and over, where service is supplied at one point, should be based on the average maximum demand of such motor or motors for thirty minutes, instead of on their rated capacity. In measuring the maximum demand, 746 watts input to the motor should be considered as 1 horsepower.

Pacific Gas and Electric Company's existing rates for electric service in the San Jose district may remain in effect, until modified, except in the respects hereinbefore indicated.

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(*f*) EFFECT OF RATES.

The following table shows the estimated effect of the rates herein established on the general lighting business and the street lighting business of Pacific Gas and Electric Company within the San Jose district:

TABLE V.

Effect of Rates.

General lighting service (assumed increase over 1913)---10 per cent		
Statistics, 1914—		
Consumers	6,125	
Connected load	10,043 k. w.	
Sales	3,486,469 k. w. h.	
Revenue—		
First block, 20 kilowatt hours per month at 7¢, 416,563 k. w. h.		$29,159 41
Second block, 330 kilowatt hours per month at 4¢, 1,492,069 k. w. h.		59,682 76
Third block, all over 350 kilowatt hours at 3¢, 1,577,836 k. w. h.		47,335 08
First block increased 15.4 per cent by minimum		$4,490 55
Total estimated revenue		140,667 80
Total estimated cost	$139,601 10	
Excess of revenue over cost	1,066 70	
Revenue, 1913	169,534 21	
Street lighting (assumed increase over 1913)---8 per cent		
Statistics, 1914—		
Connected load	384 k. w.	
Sales	815,570 k. w. h.	
Revenue—		
Total estimated revenue		36,400 00
Total estimated cost	$32,902 77	
Excess of revenue over cost	3,497 23	
Revenue, 1913	35,965 56	
Total estimated general and street lighting revenue		$177,067 80

I submit herewith the following form of order:

ORDER.

The above entitled proceedings having been consolidated for hearing, and public hearings having been held thereon, and said proceedings having been submitted and being now ready for decision, the Railroad Commission hereby finds as a fact that the rates, rules, regulations and practices of Pacific Gas and Electric Company in its San Jose district are unjust, unfair and unreasonable in so far as they differ from the rates, rules, regulations and practices herein established; and the Railroad Commission further finds as a fact that the rates, rules, regulations and practices herein established are fair and reasonable.

Basing its decision on the foregoing findings of fact and on the further findings which are contained in the opinion which precedes this order,

It is hereby ordered as follows:

1. Pacific Gas and Electric Company shall, at its own expense, upon written demand therefor, make extensions of its electric service when-

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ever required within the limits of San Jose, Los Gatos, and Sunnyvale, and within the unincorporated territory in the San Jose district. If, in any case, Pacific Gas and Electric Company believes that it would be unreasonable to make, at its own expense, any extension in unincorporated territory in its San Jose district, it may apply to the Railroad Commission for relief from the provisions of this paragraph, in so far as they affect said extension, but the attention of Pacific Gas and Electric Company is drawn to the fact that the Railroad Commission is allowing in the decision herein for extensions and additions during the year 1914, the sum of $191,101.49.

2. Pacific Gas and Electric Company is hereby directed to prepare and submit to the Railroad Commission for filing, rules and regulations to govern the distribution of electric energy in its San Jose district, as provided by section 14 of the Public Utilities Act. The company may, if it desires, defer the presentation of such rules and regulations until the Railroad Commission has adopted its proposed circulars governing the filing of rates, rules, and regulations by electric utilities, but the attention of Pacific Gas and Electric Company is drawn to the fact that in the meantime it can probably enforce no rules or regulations in the San Jose district unless it has filed the same with the Railroad Commission, as prescribed by the Public Utilities Act.

3. Pacific Gas and Electric Company is hereby directed to file with the Railroad Commission within twenty (20) days from the date of the order herein, and thereafter to charge the following rates for general lighting, municipal street lighting and special street lighting, in the cities of San Jose, Los Gatos, and Sunnyvale, and the unincorporated territory in the San Jose district:

Schedule "A." General Lighting Rates.

Applicable to all lighting installations served from the San Jose district distribution system. (Including all lamp socket appliances).

C.R.C. Classification: Service No. 1121; Rate 0021; Serial 140811—1.

First 20 kilowatt hours per month, 7 cents per kilowatt hour.
Next 330 kilowatt hours per month, 4 cents per kilowatt hour.
Over 350 kilowatt hours per month, 3 cents per kilowatt hour.
Minimum charge $1.00 per meter per month.

Schedule "B." Municipal Street Lighting Rate.

Applicable to all street and other public outdoor lighting.

C.R.C. Classification: Service No. 5235; Rate 0500; Serial 140811—2.

Ten cents per year per watt connected.

Schedule "C." Special Street Lighting Rate.

Applicable to tower lighting.

C.R.C. Classification: Service 5315; Rate 0500; Serial 140811—3.

Six cents per year per watt connected.

4. Pacific Gas and Electric Company is hereby directed to file with the Railroad Commission within twenty (20) days from the date of the order herein, and thereafter to be governed by the following changes in its agricultural and other power schedules:

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(*a*) The present agricultural and other power schedules of rates should be made applicable to all installations of one (1) horsepower and over, instead of five (5) horsepower and over, as at present, provided that in the case of new consumers the electric company shall have the option of supplying either single phase or 3-phase current to power installations of less than three (3) horsepower.

(*b*) The consumer should have the option of combining power of less than three (3) horsepower and lighting, at lighting rates and at the lighting minimum, or of requiring separate power and lighting meters for each service at the rates and minimum charges applicable thereto.

(*c*) The minimum charge on single motor installations of twenty-five (25) horsepower and over and on installations of more than one (1) motor of three (3) horsepower and over, where service is supplied at one point, should be based upon the average maximum demand of such motor or motors for thirty (30) minutes, instead of on their rated capacity. In measuring the maximum demand, 746 watts input to the motor should be considered as one (1) horsepower.

5. Except in so far as herein modified, Pacific Gas and Electric Company's existing rates for electric service in the San Jose district may continue in effect until hereafter altered.

6. In all other respects the complaint in Case No. 477 is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of August, 1914.

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DECISION NO. 1759.

SALINAS CITY

vs.

COAST VALLEYS GAS AND ELECTRIC COMPANY.

Case No. 495.

Decided August 28, 1914.

Complaint of Salinas City alleges, in effect, that the electric rates of respondent for all classes of service are unjust and unreasonable, and petitions the Commission to establish reasonable rates for such service.

Held, That the present rates of respondent in so far as they differ from the schedules herein established are unjust and unreasonable. The following rates established to become effective thirty days from date: For general lighting, first 20 kilowatt hours, per month, 8 cents per kilowatt hour, next 30, 6 cents, next 300, 5 cents, all over 350, 3 cents; minimum charge $1.00 per meter per month. For lighting purposes 10 cents per year per watt connected. No adjustments directed affecting power rates with the exception of certain changes as regards the application of the present schedule.

J. H. Andreson, city attorney, for Salinas City.

Chickering & Gregory, George H. Whipple, Warren Gregory, and *Jared How*, for Coast Valleys Gas and Electric Company.

REPORT OF THE COMMISSION.

THIELEN, *Commissioner.*

The issue in this case is the ascertainment of fair and reasonable rates to be charged by defendant for electric energy supplied to Salinas City and to the inhabitants thereof.

The complaint, after referring to the fact that Salinas City has voted to confer upon the Railroad Commission the city's powers over public utilities engaged in the business of distributing electric energy, alleges that the defendant, which is the only public utility supplying energy within Salinas City, is charging the following rates for electric energy supplied to Salinas City and the inhabitants thereof:

First 50 kilowatt hours	10	cents per kilowatt hour
Second 50 kilowatt hours	9	cents per kilowatt hour
Third 50 kilowatt hours	8	cents per kilowatt hour
Fourth 50 kilowatt hours	7	cents per kilowatt hour
Fifth 50 kilowatt hours	6	cents per kilowatt hour
250 to 500 kilowatt hours	5	cents per kilowatt hour
500 to 1,000 kilowatt hours	4	cents per kilowatt hour
1,000 to 2,000 kilowatt hours	3½	cents per kilowatt hour
Over 2,000 kilowatt hours	3	cents per kilowatt hour

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DAY POWER AND COOKING RATES.

0 to	250 kilowatt hours	5	cents per kilowatt hour
250 to	1,000 kilowatt hours	4	cents per kilowatt hour
1,000 to	2,000 kilowatt hours	3½	cents per kilowatt hour
2,000 to	4,000 kilowatt hours	3	cents per kilowatt hour
4,000 to	6,000 kilowatt hours	2½	cents per kilowatt hour
6,000 to	10,000 kilowatt hours	2	cents per kilowatt hour

Minimum $1.00 per month for 0 to 5 horsepower.
Minimum .75 per month for 5 to 25 horsepower.
Minimum .50 per month for 25 horsepower and up.
For each arc light (series arc lamp 6.6 amp.) burned in Salinas City from sunset to sunrise, $7.50 per month.

The complaint then continues and alleges, in effect, that at the time the city council of Salinas was engaged in the establishment of electric rates to be charged for the year commencing July 1, 1912, defendant offered to make a reduction of 10 per cent in the lighting rates, in consideration of cash payments to be made by consumers; that thereafter the city council of Salinas City, without accepting said offer of reduction in rates, adopted an ordinance establishing the rates at which electric energy should be supplied to Salinas City and to the inhabitants thereof, which rates were lower than those which the defendant had offered to accord; that thereafter defendant commenced proceedings in the Superior Court of Monterey County and secured an injunction enjoining the enforcement of said ordinance; that as a consequence of the injunction defendant has been able to continue to charge the rates for electricity which were in effect prior to July 1, 1912; that the rates charged by defendant for electric energy are unjust and unreasonable; and that Salinas City uses 55 arc lamps for street lighting purposes, paying therefor the aggregate monthly sum of $412.50, and that the rate paid therefor is unjust and unreasonable. The complainant asks that this Commission establish the rates at which electricity shall be sold to Salinas City and to the inhabitants thereof.

The answer, after admitting certain allegations of the complaint, alleges that there is in effect in Salinas City an additional optional rate for cooking and power purposes, which rate is set forth in Exhibit "A," attached to the answer; denies the allegations of the complaint with reference to the offer of reduction in rates made by defendant, and in this connection alleges that defendant's offer was to give a cash discount of 10 per cent if bills were paid at the office of the company in Salinas City on or before the tenth day of the month succeeding that in which the service is rendered, provided that in no case should the monthly payment be less than $1.00, and alleges that the street lighting in Salinas City was excepted from said offer; alleges that the existing rate for street lighting includes maintenance of lamps, renewal of parts thereof and trimming and inspection of the same; and denies that any of defendant's rates charged to Salinas City and the inhabitants thereof

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are unfair or unreasonable. In the affirmative defense, defendant alleges that any reduction of existing rates by this Commission would deprive defendant of its property without due process of law, and would be in violation of defendant's constitutional rights.

Public hearings in this case were held in Salinas City on January 30, 1914, and in San Francisco on March 23 and 25, May 9 and 11, 1914. Permission was given to defendant to file a brief. This brief has now been filed and the case is ready for decision.

Coast Valleys Gas and Electric Company was incorporated under the laws of this State on March 18, 1912. Immediately thereafter applicant acquired both the capital stock and the property of Monterey County Gas and Electric Company, Monterey Gas and Electric Company, Salinas Water, Light and Power Company, California Consolidated Light and Power Company, and Salinas Valley Water Company. The California Consolidated Light and Power Company had acquired all the capital stock and the property of Monterey County Gas and Electric Company, Monterey Gas and Electric Company and Salinas Water, Light and Power Company, except the water properties of Salinas Water, Light and Power Company, which properties were conveyed to Salinas Water Company. The California Consolidated Light and Power Company also owned the capital stock of the Monterey and Pacific Grove Railway, operating an electric line of railroad between Monterey and Pacific Grove.

Coast Valleys Gas and Electric Company now distributes electricity in Salinas, Monterey, Pacific Grove, and King City, and in rural territory adjacent to these cities, particularly to Salinas; gas in Salinas, Monterey, and Pacific Grove; and water in Salinas and King City.

The company secures hydroelectric energy at its substation in Salinas from Sierra and San Francisco Power Company at 55,000 volts at a rate equal to 1.3 cents per kilowatt hour less the load factor. From Salinas this energy is conveyed over transmission lines to Monterey on the west and King City on the south. The company owns distribution systems in and about Salinas, Monterey, Pacific Grove, and King City, and also distributes some electric energy from substations between Salinas and King City.

The substation at Salinas distributes electric energy to Salinas and to the rural territory adjacent thereto, wherein a large irrigation load is consumed. Street lighting systems have been installed in Salinas, Monterey, Pacific Grove, and King City.

Defendant also owns a 1,000 kilowatt steam plant at Monterey and small partly obsolete steam plants in Salinas and King City. The Monterey plant has a capacity sufficient to carry the Monterey load at all times and the load of the entire system except over the power peak

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due to the irrigation load. The Monterey plant is maintained as a standby and is ready for service at all times on short notice.

Electric energy was first distributed in Salinas by Salinas City Gas and Water Company. This company was incorporated on May 4, 1875, and for a number of years confined itself to the distribution of gas and water. On November 1, 1888, the company secured a franchise for the distribution of electric energy. Shortly thereafter the distribution of electricity was commenced.

While the complaint in this case is confined to rates for electric energy distributed within the city of Salinas, it will be necessary in many aspects to consider the electric system as a whole. Among other reasons making such procedure necessary, the following are significant:

(1) The additions and betterments to electric capital from August 31, 1912 (the date of the Ford, Bacon & Davis appraisal), to December 31, 1913, have not been segregated between the various districts.

(2) The rural load, which consists largely of power for agricultural purposes, is necessary to secure a better load factor for the entire system. The city business, which profits from the better load factor, should help pay part of the burdens of the rural service.

Basis of Return.

Mr. H. F. Jackson, defendant's general manager, made an analysis of the books of account of defendant and its predecessors and testified as a result of this analysis to a total of $1,093,092.00 for all capital expenditures made by defendant and its predecessors for defendant's entire property from the beginning to December 31, 1913. This sum apparently does not include a part of interest during construction, but does include the entire amount spent since 1874 or 1875 for property now abandoned or replaced. Mr. Jackson made no analysis of the capital expenditures for the electric properties alone.

Coast Valleys Gas and Electric Company presents the following tabulation as showing the cost to it of the property purchased on March 18, 1912, with additions and betterments to December 31, 1913, including an allowance for interest at the rate of 8 per cent per annum on the purchase price of the stock from March 18, 1912, to December 31, 1913:

Underlying bonds	$500,000 00
Floating debt, March 18, 1912	207,000 00
Purchase price of stock	400,000 00
Expenditures for additions and betterments—March 18, 1912, to December 31, 1913	286,137 00
Interest on $400,000.00, purchase price of stock from March 18, 1912, to December 31, 1913, at 8 per cent per annum	57,250 00
Total	$1,450,387 00

Defendant claims to have paid $400,000.00 for the stock of its predecessor companies. As $500,000.00 face value of bonds and a floating

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debt of $207,000.00 were outstanding on March 18, 1912, it follows that if $400,000.00 was actually paid for the stock of the predecessor companies, defendant paid $1,107,000.00 for the property which, according to Mr. Jackson's analysis, had cost at that time not to exceed $806,955.00 (with certain additions for interest during construction, and deductions for abandoned and replaced property during more than thirty years). This price would be $300,000.00 in excess of the cost of the property. It must also be remembered that this price includes bond discount.

Defendant acquired its property only a day or two before the effective date of the Public Utilities Act and with a full realization that its rates would be subject to public regulation, and defendant must be presumed to have known that it was entitled to a return on only a fair value of the property. In order to be absolutely fair to defendant, the Commission will in this case allow the full estimated reproduction cost of the physical properties, although certain portions thereof are already partly obsolete, and will further allow an item for intangibles, although not proved. In this manner, out of liberality to the defendant, the Commission will make up a material portion of the difference between the amount alleged to have been paid for the property and the real value thereof.

Defendant introduced in evidence an estimate of the cost to reproduce defendant's entire property as of August 31, 1912, with additions for the actual expenditures for additions and betterments from August 31, 1912, to December 31, 1913, prepared by Ford, Bacon & Davis, which estimate is as follows:

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TABLE No. I.

Ford, Bacon & Davis Estimate of Defendant's Entire Property.

	Physical property	Rights, capital and organization (A)	Going value (B)	Total other than physical	Total corporate	Additions to December 31, 1913	Total as of December 31, 1913
Operative:							
Electric division	$492,270 00	$141,785 00	$148,500 00	$290,285 00	$782,555 00	$116,144 00	$898,699 00
Gas division—							
Salinas	155,042 00	30,643 00	18,900 00	49,543 00	204,585 00	4,279 00	208,864 00
Monterey and Pacific Grove	187,365 00	37,500 00	28,300 00	65,800 00	253,165 00	9,939 00	263,104 00
Water division—							
Salinas	192,526 00	61,372 00	24,050 00	85,422 00	277,948 00	602 00	278,550 00
King City	21,239 00	6,770 00	5,250 00	12,020 00	33,259 00	527 00	33,786 00
Total operative	$1,048,442 00	$278,070 00	$225,000 00	$503,070 00	$1,551,512 00	$131,491 00	$1,683,003 00
Non-operative:							
Electric division	$30,629 00				$30,629 00		$30,629 00
Gas division	221 00				221 00		221 00
Water division	497 00				497 00		497 00
Obsolete equipment	373 00				373 00		373 00
Total non-operative	$31,720 00				$31,720 00		$31,720 00
Total corporate property	$1,080,162 00	$278,070 00	$225,000 00	$503,070 00	$1,583,232 00	$131,491 00	$1,714,723 00

(A) Distributed between electric, gas and water divisions in proportion to the physical investment in each.

(B) The total going value of the property of $225,000.00, having been derived as a function of gross earnings, is here distributed among the various divisions in proportion to the gross earnings of each.

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The estimated cost of reproduction as of August 31, 1912, less accrued depreciation as estimated by Ford, Bacon & Davis, was $1,414,892.32.

In view of the fact that this estimate, as of December 31, 1913, amounting to $1,714,723.00, is more than $600,000.00 in excess of the actual cost, as testified to by Mr. Jackson from the original cost records, it becomes necessary to consider this estimate with some care.

The most significant fact in connection with this estimate lies in the following two items:

Rights, capital and organization	$278,070 00
Going value	225,000 00
Total	$503,070 00

It thus appears that to the total estimated reproduction cost of the physical elements as of August 31, 1912, amounting to $1,080,162.00, almost 50 per cent was added for these nebulous items, and that as to the electric properties the percentage added is almost 60 per cent. These items were added without evidence of actual expenditures to support them and were calculated on hypotheses which assumed conditions entirely at variance with the actual facts surrounding the construction and development of these properties. In fact, in so far as the Salinas properties are concerned, the testimony shows that they originally cost between $40,000.00 and $48,000.00; that they were sold for $125,000.00 in 1901 or 1902, at which time $130,000.00 to $135,000.00 had been invested therein and that while some assessments (the amount whereof was not given) were levied prior to 1885, the properties were largely built out of the earnings. No assessments were levied after the Salinas electric properties were constructed. The evidence also shows that in addition to construction carried on from earnings, the profits were sufficient to yield an average of five to six per cent dividends during the period from 1874 or 1875 to 1901 or 1902. It is a fair inference from the testimony that the profits of these years were large enough to take care of all allowances which can reasonably be made for the foregoing items.

In reaching a conclusion as to the cost to reproduce the physical elements of the property, Ford, Bacon & Davis applied certain percentages which may be illustrated by the Salinas electric properties as follows:

Contingencies, incidentals and incomplete inventory—on designated items	5–10 per cent
Contractor's expenses, services and profits—on power plant, buildings; general structures; labor and foundations on power plant equipment; and piping and miscellaneous on furnaces, boilers and accessories	15 per cent
Engineering and superintendence	7½ per cent
Interest and taxes	10½ per cent
Injuries and damages—on labor	4 per cent

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The interest is estimated on the assumption that the plant would be built as a unit, that no revenue would be derived from operation until completion and that it would take two years to complete the plant. These assumptions are all contrary to the facts surrounding the construction of these properties and the results secured are widely at variance from those secured from either the original construction of the cost of reproduction theory applied in accordance with the historical method. Thus, the gas and water plant at Salinas was constructed in not to exceed six months and the electric properties were added while the property was in full operation. There is no unit in this system which can not reasonably be constructed in six months.

There has been considerable confusion in this case with reference to contractor's profits. If it is desired to estimate the cost to reproduce the utility property as of a certain date and it is thought more economical to have the work done by a contractor, a contractor's profit must of course be included in the estimate. On the other hand, if it is thought more economical to have the utility itself do the work, there should be no contractor's profit, although in that case certain items might cost more than they would cost if a contractor did the work. In the present case, Ford, Bacon & Davis has assumed that certain portions only of the plant would be built by a contractor. However, no material reduction was made in any of the unit prices from the prices used for company construction and I find that the unit prices used are high enough to eliminate the contractor, at least in so far as the Salinas electric properties are concerned.

Mr. Kelly, one of this Commission's engineers, made a check of the Ford, Bacon & Davis electric properties estimate in part as to quantities and completely as to unit costs and overhead percentages. He allowed percentages varying from 5 to 10 for contingencies, 10 per cent for engineering, superintendence, administration, insurance and taxes and 3 per cent for interest during construction. The overhead charges on that portion of the system of which the reproduction cost was estimated as taken by Mr. Kelly, amounted to approximately 20 per cent. While this percentage is in excess of that used by this Commission in recent important electric rate cases, it would not be proper, on the evidence in this case, to reduce it here.

As the result of Mr. Kelly's testimony and other testimony, it will be necessary to make a number of adjustments in the Ford, Bacon & Davis estimate, in addition to the items already mentioned. These adjustments are as follows:

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(1) Transmission line Salinas to Chualar.

The actual cost of this line is now available and should be used.

Actual cost as reported (including all overhead charges except interest during construction)	$59,358 92
Interest during construction	890 38
	$60,249 30
Deduct for reconstruction	1,000 00
	$59,249 30

(2) Monterey steam plant.

Five thousand dollars should be allowed for real estate instead of $6,666.66 and $2,516.10 should be deducted. Of the latter amount, $2,289.60 is included in the allowance for material and supplies and the balance is a correction in the cost of certain distribution transformers.

(3) Salinas steam plant.

Four hundred and seventy dollars should be deducted on account of 235 horsepower boiler.

(4) King City steam plant.

One thousand four hundred and seventy-nine dollars should be deducted on account of duplication of transformer equipment and $494.91 in the estimated cost of switchboard equipment.

(5) Distribution systems.

One dollar and fifty cents per meter should be deducted from all house meters.

(6) Readjustment of pole charges.

A proper pro rata of the investment in poles must be deducted from general distribution and charged against the street lighting system.

(7) Testing equipment.

Five hundred dollars should be added to allow for the purchase of such equipment.

(8) Additions and betterments.

These items must be distributed on the basis of previous investments for the reason that they were not segregated in sufficient detail. They should be taken at actual book cost.

(9) Working capital.

An allowance of $14,604.05 should be made for material and supplies, this being the actual inventory, and $14,513.00, being the equivalent of two months' operating expenses, should be added for working capital. The amount claimed by defendant for a construction fund is taken care of by the allowance for interest during construction.

(10) Construction capital.

An allowance of approximately 10 per cent of the investment, exclusive of general and intangible capital not subject to increase with additional business, should be made for new construction.

The following table shows the foregoing adjustments to estimated reproduction cost new.

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TABLE No. II.

Electric Investment—Tangible Property.

	Generation A	Transmission B	Distribution C	Street lighting D	General	Total
1. Real estate	$9,493 51		$103 00		$1,422 54	$11,019 05
2. Rights of way		$1,013 54				1,013 54
3. Buildings	30,047 95		1,409 77		2,131 17	33,588 89
4. Furnaces, boilers and accessories	60,714 57					60,714 57
5. Steam power plant equipment	37,754 41					37,754 41
6. Generators	19,860 09					19,860 09
7. Switchboard equipment	3,145 91	486 76	1,396 43			5,029 10
8. Transformers	357 60		25,466 82	$3,320 49		29,144 91
9. Poles and fixtures		39,785 98	58,436 79	6,027 44		104,250 21
10. Wire and insulators		53,495 32	69,018 63	6,761 03		129,274 98
11. Substation equipment			49,380 50			49,380 50
12. Meters			41,175 40			41,175 40
13. Services			14,561 80			14,561 80
14. Street lamps				5,682 86		5,682 86
15. Telephone lines					1,800 76	1,800 76
16. Office and miscellaneous equipment					2,215 89	2,215 89
17. Stables and garage equipment					3,017 12	3,017 12
18. Tools					218 65	218 65
19. Testing equipment					500 00	500 00
20. Working capital					33,265 46	33,265 46
21. Construction capital					55,200 00	55,200 00
Totals	$161,374 04	$94,781 60	$260,949 14	$21,791 82	$94,771 59	$638,668 19

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After a careful consideration of all the evidence in this case, I find as a fact that $663,668.19 is at least a fair and reasonable amount to be used as a basis on which a return shall be allowed to defendant on its electric properties.

RATE OF RETURN.

Defendant's claim that it should be allowed a return of 10 per cent on the estimated cost of reproducing its property new is excessive. I find that a return of 8 per cent on the basis hereinbefore indicated will be fair and reasonable.

DEPRECIATION.

Sums adequate for depreciation, obsolescence and inadequacy, on the sinking fund method, have been estimated and will be found in Table III.

OPERATING EXPENSES.

The operating expenses incurred by defendant in connection with its electric properties in 1913 will all be allowed with the following additions:

(1) Two thousand five hundred dollars should be added to the salaries of general officers, in accordance with the testimony showing an increase in these salaries for 1914.

(2) General law expenses should be increased from $491.00 to $1,000 in order to include a pro rata (over a period of years) of the cost of litigation in these cases.

(3) The following increases in operating and maintenance expenses will be assumed, resulting from increases in business:

Maintenance	10 per cent
*Production expense	5 per cent
Transmission expense	5 per cent
Substation expense	6 per cent
Distribution expense	5 per cent
Street lighting expense	5 per cent
Service expense	10 per cent

The following table shows the cost of electric service in accordance with the foregoing portion of this opinion:

*Cost of purchased energy increased in proportion to system input.

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TABLE No. III.

Cost of Electric Service.

	Production	Transmission	Substation	Sub-total	Street lighting	Distribution	Service	Totals
Investment	$198,736 89	$116,726 43	$64,567 06	$380,030 38	$26,837 58	$188,157 90	$68,642 33	$663,668 19
Interest	$15,898 95	$9,338 11	$5,165 36	$30,402 42	$2,147 01	$15,052 63	$5,491 39	$53,093 45
Depreciation	3,242 38	2,445 17	1,162 06	6,849 63	733 33	4,026 00	1,966 66	13,575 62
Maintenance	1,031 49	972 54	62 95	2,066 98	274 61	2,582 74	881 45	5,805 78
Total fixed cost	$20,172 82	$12,755 82	$6,390 39	$39,319 03	$3,154 95	$21,661 37	$8,339 50	$72,474 85
Operation	$16,189 54	$878 05	$402 30	$17,469 89	$1,333 97	$9,383 83	$10,777 54	$38,965 23
Taxes	1,753 32	657 39	327 53	2,738 24	216 45	1,496 93	921 78	5,373 40
Total operation cost	$17,942 86	$1,535 44	$729 83	$20,208 13	$1,550 42	$10,880 76	$11,699 32	$44,338 63
Purchased energy increased for taxes				45,758 51				
Total cost of service	$38,115 68	$14,291 26	$7,120 22	$105,285 67	$4,705 37	$32,542 13	$20,038 82	$162,571 99

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The distribution in the foregoing table is obtained from Table No. II as follows: To the total for generating, transmission and street lighting capital a pro rata of general capital is added. The totals for distribution are similarly secured from items 1-C, 3-C, 7-C to 11-C inclusive, and service capital is secured from items 12-C and 13-C by adding the proper percentages of general capital.

THE RATES.

The complaint herein attacks a certain rate for day power and cooking which is set forth at the outset of this opinion. At the time the complaint was filed, certain optional power rates, of which the complainant apparently did not know, were in effect. These rates are materially lower than those complained of and are as follows:

COMMERCIAL POWER.

Schedule A—4-2-1 Rate:

First 50 k. w. c. per month horsepower of rated capacity	4¢ per k. w. h.
Next 100 k. w. h. per month per horsepower of rated capacity	2¢ per k. w. h.
All over 150 k. w. h. per month per horsepower of rated capacity	1¢ per k. w. h.

A discount is allowed of 1 per cent for each 5 horsepower of rated capacity from the foregoing rates up to a maximum of 30 per cent discount provided bills are paid at the office of the company on or before the tenth day of the month succeeding that for which bill is rendered. Minimum bill 50 cents per horsepower per month for each month of the year or $12.00 per horsepower per year.

Schedule B—Service Plus Energy Charge:

Installations of 1 to 49 horsepower, rated capacity	1½¢ per k. w. h.
Installations of 50 to 99 horsepower, rated capacity	1¼¢ per k. w. h.
Installations of 100 and over, rated capacity	1¢ per k. w. h.

Energy charge plus a service charge of $1.00 per month per horsepower of rated capacity for twelve months per year, or $1.25 per month per horsepower of rated capacity for each of six or more specified months. Energy charge for months not so specified as follows:

Installations of 1 to 49 horsepower, rated capacity	2½¢ per k. w. h.
Installations of 50 to 99 horsepower, rated capacity	2¼¢ per k. w. h.
Installations of 100 horsepower or over, rated capacity	2¢ per k. w. h.

Flat rate schedule for agricultural service $50.00 per horsepower per year with various lesser charges for short season business.

In view of the fact that the above optional power rates were not attacked by complainant, and the further fact that they contain no objectionable features and are fairly proportionate to the cost of service, I shall recommend that no change be made in power schedules at this time except as follows:

(1) The consumer shall have the option of combining power of less than 3 horsepower with lighting at the lighting rates and at the lighting minimum, or of requiring separate power and lighting meters for each service at the rates and minimum charges applicable thereto.

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(2) In the case of new consumers, the defendant shall have the option of supplying either single phase or three-phase current to power installations of less than 3 horsepower.

I find as a fact that the present rates for general lighting and for municipal street lighting in Salinas are excessive and that the following rates are just and reasonable rates to be charged by defendant to the city of Salinas and the inhabitants thereof for the respective classes of service therein designated:

Schedule "A." General Lighting Rates.

Applicable to all lighting installations served from the Salinas distribution system. (Including all lamp socket appliances.)

C. R. C. Classification: Service No. 1121; Rate 0021; Serial 140821-1.

First 20 kilowatt hours per month, 8¢ per kilowatt hour.
Next 30 kilowatt hours per month, 6¢ per kilowatt hour.
Next 300 kilowatt hours per month, 5¢ per kilowatt hour.
All over 350 kilowatt hours per month, 3¢ per kilowatt hour.
Minimum charge $1.00 per meter per month.

A service charge of $1.00 will be required of all applicants for service, the same to be refunded if applicant remains a consumer of the company continuously for twelve months at one location.

Schedule "B." Municipal Street Lighting.

Applicable to all street and other public outdoor lighting.

C. R. C. Classification: Service No. 5235; Rate 0500; Serial 140821-2.

Ten cents per year per watt connected.

I submit herewith the following form of order:

ORDER.

Public hearings having been held in the above entitled proceeding, and said proceeding having been submitted, and a brief having been filed by defendant, and the case being now ready for decision, the Railroad Commission hereby finds as a fact that defendant's existing rates for electric energy distributed to the city of Salinas and the inhabitants thereof are unjust and unreasonable, in so far as they differ from the rates herein established, and the Railroad Commission further finds as a fact that the rates herein established are fair and reasonable rates for electric energy distributed by defendant to the city of Salinas and to the inhabitants thereof.

Basing its decision on the foregoing findings of fact and on the further findings of fact which are contained in the opinion which precedes this order,

It is hereby ordered that Coast Valleys Gas and Electric Company be and the same is hereby directed to establish and file with the Railroad Commission within thirty (30) days from the date of this order, the following rates for electric energy supplied to the city of Salinas and the inhabitants thereof:

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Schedule "A." General Lighting Rates.

Applicable to all lighting installations served from the Salinas distribution system. (Including all lamp socket appliances.)

C. R. C. Classification: Service No. 1121; Rate 0021; Serial 140821-1.

First 20 kilowatt hours per month, 8c per kilowatt hour.
Next 30 kilowatt hours per month, 6c per kilowatt hour.
Next 300 kilowatt hours per month, 5c per kilowatt hour.
All over 350 kilowatt hours per month, 3c per kilowatt hour.
Minimum charge $1.00 per meter per month.

A service charge of $1.00 will be required of all applicants for service, same to be refunded if applicant remains a consumer of the company continuously for twelve months at one location.

Schedule "B." Municipal Street Lighting.

Applicable to all street and other public outdoor lighting.

C. R. C. Classification: Service No. 5235; Rate 0500; Serial 140821-2.

Ten cents per year per watt connected.

Schedule "C." Power Rates.

Until the further order of this Commission, Coast Valleys Gas and Electric Company may continue to charge the existing power rates applicable within the limits of the city of Salinas, with the following changes:

(1) The consumer shall have the option of combining power of less than 3 horsepower and lighting at the lighting rates and at the lighting minimum, or of requiring separate power and lighting meters for each service at the rates and minimum charges applicable thereto.

(2) In the case of new consumers, the company shall have the option of supplying either single or three-phase current to power installations of less than 3 horsepower.

In all other respects the complaint in the above entitled proceeding is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of August, 1914.

Decision No. 1760.

IN THE MATTER OF THE APPLICATION OF THE LINDSAY HOME TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO ISSUE A NOTE.

Application No. 1258.

Decided August 29, 1914.

Applicant authorized to issue its note of the face value of $2,000.00 to be sold at its face value, bearing interest at the rate of 8 per cent per annum, proceeds to be used for the purposes of paying off a $500.00 note now due, balance for additions to present system.

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REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner.*

Lindsay Home Telephone and Telegraph Company, applicant herein, operates a telephone and telegraph system in and about the city of Lindsay, Tulare County, California. Applicant desires to borrow the sum of $2,000.00 to finance new construction and to pay off a note of the face value of $500.00 which is held by the Pacific Telephone and Telegraph Company. If applicant is authorized to borrow the $2,000.00 herein applied for, it proposes to pay off this amount at the rate of $100.00 per month.

Considering all the circumstances surrounding this application, I believe that the same should be granted, and recommend the following order:

ORDER.

Lindsay Home Telephone and Telegraph Company having applied for authority to issue a promissory note of the face value of $2,000.00, and the Commission being of the opinion that the application should be granted,

It is hereby ordered that Lindsay Home Telephone and Telegraph Company be and it is hereby authorized to issue its promissory note of the face value of $2,000.00 upon the following conditions, and not otherwise, to wit:

1. Said note shall be issued so as to net applicant the face value thereof;

2. Said note shall be issued for a term not exceeding five (5) years and at a rate of interest not exceeding eight per cent (8%) per annum;

3. The money obtained by the issuance of said note shall be used only for the following purposes:

Connecting new subscribers	$1,200 00
New aerial leads	100 00
New aerial wire	200 00
Paying off Pacific Telephone and Telegraph Company note	500 00
Total	$2,000 00

4. Applicant shall keep an accurate account of the disbursement of the moneys received from the note herein authorized, and shall, on or before the twenty-fifth day of each month, make a verified report to the Commission stating in detail the disbursements made during the preceding month;

5. Any note issued in accordance with this order must be issued on or before September 30, 1914;

6. This order shall become effective only after the payment of the fee provided in section 57 of the Public Utilities Act.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of August, 1914.

Decision No. 1761, grade crossing; not printed. See end of volume.

DECISION No. 1762.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY, CONSOLIDATED, FOR AUTHORITY TO ISSUE PROMISSORY NOTES IN THE AMOUNT OF TWENTY-TWO THOUSAND DOLLARS.

Application No. 1295.

Decided August 31, 1914.

Applicant authorized to issue notes aggregating the face value of $22,000.00 in renewal of note of a like amount, proceeds of which were used for additions and betterments to plant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

ORDER.

Northern California Power Company, Consolidated, having made application to this Commission for authority to issue promissory notes in the sum of $22,000.00 for the purpose of refunding outstanding notes; and the indebtedness, represented by said outstanding notes in the sum of $22,000.00, having been incurred for additions and betterments to applicant's plant; and a hearing having been held upon the application herein, and it appearing that the purposes for which it is desired to issue such notes are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Northern California Power Company, Consolidated, be given authority and it is hereby given authority to issue its promissory notes in the sum of $22,000.00 as follows:

One note to be dated September 1, 1914, payable to J. H. Stutt, in the amount of $2,000.00, with interest at 6 per cent, to be made payable one day after date; this note to be issued for the purpose of refunding a note in similar amount dated January 1, 1911, issued by Northern California Power Company, Consolidated, to said J. H. Stutt.

One note to be dated September 1, 1914, payable to The Redding National Bank, in the sum of $10,000.00, with interest at 6 per cent, to be payable on or before one year from date; said note to be issued to refund a note dated September 7, 1912, issued by the applicant herein to The Redding National Bank, in the amount of $10,000.00.

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One note to be dated September 1, 1914, payable to Seaboard National Bank, in the sum of $10,000.00, with interest at 6 per cent, to mature in ninety days, with the privilege of extending the maturity from time to time to September 1, 1915; said note to be issued to refund a note dated December 6, 1912, issued by the applicant herein to Seaboard National Bank in the sum of $10,000.00.

The applicant herein shall report to this Commission by September 15, 1914, when the notes herein have been issued, and that the notes which they are to refund have been canceled.

The authority herein granted shall apply to such notes as shall have been issued on or before September 15, 1914.

The authority herein granted is conditioned upon the payment by the applicant herein of the fee prescribed by the Public Utilities Act.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, this 31st day of August, 1914.

DECISION No. 1763.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE NOTES.

Application No. 1198.

Decided September 1, 1914.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

It is hereby ordered that Southern Counties Gas Company of California be, and the same is hereby authorized to execute a mortgage upon its property in the form of the trust deed, filed in this proceeding and marked "Exhibit G," under the condition specified in the first supplemental order made in this proceeding on August 19, 1914, approving the form of said trust deed.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

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DECISION NO. 1764.

IN THE MATTER OF THE APPLICATION OF WESTERN WATER COMPANY FOR AN ORDER THAT NO CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS NECESSARY TO CONTINUE TO SELL AND DISTRIBUTE WATER IN CERTAIN PARTS OF KERN COUNTY.

Application No. 958.

Decided September 1, 1914.

Applicant, Western Water Company, petitions the Commission for an order declaring that no certificate of public convenience and necessity is necessary to enable it to continue serving territory previously served through laterals owned by consumers, but now served through a canal constructed subsequent to March 23, 1912. That if such certificate is necessary, the same be issued.

Held, That it is clearly shown that applicant, through written agreements, refused to obligate itself to serve additional territory through laterals, that a certificate is necessary to enable it to continue service to certain portions of its district now being served, which certificate, if granted, would not affect companies now serving adjacent territory, though if denied, would materially lessen the efficiency of the service now being given. Certificate granted.

Joseph Haber, for Western Water Company.

Guy C. Earl and *Chaffee E. Hall*, for Western Oil Company.

D. S. Ewing, for August Oil Company.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Western Water Company for an order that no certificate of public convenience and necessity is necessary for said company to continue to sell and distribute water in certain specified portions of the State of California, or in the event that the Commission finds that such certificate is necessary that said certificate be issued.

A protest against the granting of this application was made by August Oil Company and Northern Oil Company, which companies furnish water to a portion of the territory claimed to be supplied by applicant.

Prior to March 23, 1912, applicant operated a water main commencing in the southeast corner of section 33, township 32 south, range 24 east, running thence northwest to a point in section 25, township 31 south, range 22 east. As to this territory no certificate is required and no contest is made. The territory in dispute here lies south of section 33, above mentioned.

From this line prior to March 23, 1912, consumers were served through laterals built by them under agreement that water was delivered by the Western Water Company at its main line, the laterals being owned and operated by the consumers. Among others, the Kern Trading and Oil Company had, prior to March 23, 1912, connected with applicant's main line in section 33, laterals running into the following sections: sec-

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tions 31 and 5, township 12 north, range 23 west; section 1, township 12 north, range 24 west; and Union Oil Company had laterals attached to the same main line, laterals running into sections 36, 35, 34, 33, 25, 27, and 28, township 12 north, range 24 west; sections 2, 11, and 12, township 12 north, range 24 west.

Applicant claims that because of the connection of these laterals with its main line that in effect it was serving water prior to March 23, 1912, in the territory covered by these laterals and therefore that no certificate is necessary, but if it be decided that a certificate is necessary that it be made to cover the territory covered by these laterals.

Subsequent to March 23, 1912, there was constructed and leased to applicant an addition to its main line, which addition commenced in section 33 aforesaid and ran across section 34, township 32 south, range 24 east; section 25, township 12 north, range 24 west; sections 31 and 5 to center of section 4, township 12 north, range 23 west.

One new service has been given from this addition to the main line in section 4 to the Union Oil Company. Laterals theretofore served by the old main line were attached to this additional main line for the purpose of bettering service.

Both the August Oil Company and Northern Oil Company serve water in the territory crossed by this additional main line, and these companies protest against the entry of applicant into this field.

An analysis of the whole situation as presented by the evidence shows clearly that applicant by its written agreements and by its entire conduct delivered water only at its main line and the addition thereto, and it carefully avoided obligating itself to give service through any laterals. Hence it must be concluded that the only territory actually served by applicant prior to March 23, 1912, was that through which its main line ran. As to this territory, of course, no certificate is necessary. The additional main line running south from section 33 was built subsequent to March 23, 1912, and ever since and now is being operated by applicant, and as to the territory traversed by this line a certificate is necessary.

No certificate can be granted applicant for the territory covered by laterals which in no sense are operated by it, but are the exclusive property and are operated entirely by consumers.

Therefore, the whole consideration here is whether or not applicant should be given a certificate for that territory traversed by the extension to its main line from section 33 south. I do not believe from the evidence that either of the protesting companies are being seriously interfered with by the existence and operation of this last mentioned part of applicant's line. The consumers served therefrom are almost entirely consumers under contract for service in other parts of the field, and there is no evidence to show that if this certificate was denied

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these consumers would fall to the protestants. On the other hand, under the contracts held by applicant with these consumers, if the use of this additional main line were discontinued, in all probability connection would be made with the laterals of the Kern Trading and Oil Company for any needed service, which could be done under the contract between that company and applicant. This would only result in less efficient service than is now being given.

I recommend that this application be granted as to those sections through which the additional main line runs from section 33 south.

There was much conflicting evidence as to the quality of water furnished by each of the companies in this field, but under the conclusion above reached, it is unnecessary to determine which has the better water.

No advance in price of water was claimed by any of the companies.

I submit herewith the following form of order:

ORDER.

Application having been made by Western Water Company for a certificate of public convenience and necessity for the construction and operation of a water pipe line system, and a public hearing having been had, and it appearing to the Commission that said application in part should be granted,

It is hereby ordered and declared, by the Railroad Commission of the State of California, that public convenience and necessity require, and will require, the construction and operation of a water pipe line system by Western Water Company in the following described territory: section 33, township 32 south, range 24 east; section 34, township 32 south, range 24 east; section 25, township 12 north, range 24 West; sections 31, 5 and 4, township 12 north, range 23 west, all in San Bernardino base and meridian.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

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Decisions Nos. 1765, 1766, and 1767, grade crossings; not printed. See end of volume.

DECISION NO. 1768.

IN THE MATTER OF THE APPLICATION OF THE CITY OF REDONDO BEACH, CALIFORNIA, FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A PUBLIC HIGHWAY AT GRADE ACROSS THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND ACROSS THE TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY, AT THE SOUTHERLY TERMINUS OF HERMOSA AVENUE, IN REDONDO BEACH, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 1253.

Decided September 1, 1914.

Applicant, City of Redondo Beach, applies for permission to construct Hermosa avenue at grade across the tracks of the Atchison, Topeka and Santa Fe Railway and Pacific Electric Railway Company, in said city, and it appearing that at the present time, within 130 feet of proposed crossing, Bonita avenue is open; that such crossing is extremely dangerous in that traffic is obliged to cross five sets of tracks upon which there is considerable switching.

Held, Application to open Hermosa avenue at grade, granted, provided that applicant shall agree to close and abandon the Bonita avenue crossing.

Frank L. Perry, city attorney, for the City of Redondo Beach.

E. W. Camp, for the Atchison, Topeka and Santa Fe Railway Company.

Frank Karr, for the Pacific Electric Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

In this application the city of Redondo Beach desires the authorization of the Commission for the construction of a crossing at grade over the tracks of the Atchison, Topeka and Santa Fe Railway Company and the Pacific Electric Railway Company, this crossing to result in continuous and unbroken roads from the east side to the west side of Redondo Beach by way of Hermosa avenue and Pacific avenue, and at the same time provide Diamond street with a crossing to the beach and water front.

Hermosa avenue and Pacific avenue are two of the principal streets of Redondo Beach, the former being of an average width of seventy (70) feet, and both being improved with modern asphalt pavement. The Pacific Electric has a double track line over both of these streets. There is at present no outlet at the southern terminus of Hermosa avenue and passengers and vehicles desiring to cross the right of way of the Santa Fe must do so by means of the Bonita avenue crossing. This crossing is inconvenient and dangerous.

In the hearing in this case at Redondo Beach, on August 11, 1914, it developed that the Atchison, Topeka and Santa Fe Railway Company is willing to grant an easement for the Hermosa avenue crossing provided

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the Bonita avenue crossing is abandoned. The city council of Redondo Beach was willing, some time ago, to accept the easement with this provision, but has later reconsidered this question and now desires both crossings. It was admitted on all sides that the Bonita avenue crossing is a dangerous one. If the Hermosa avenue crossing is granted the distance from the north line of Hermosa avenue to the south line of Bonita avenue, measuring along the center line of the Santa Fe main line track, is only 130 feet, and I can see no reason why two dangerous crossings should be permitted in so close proximity to each other. This appears to me especially true, as the Bonita avenue crossing extends over five tracks and considerable switching movement occurs over this crossing, while the extended Hermosa avenue will only cross one Santa Fe main line and one side track. I am of the opinion, therefore, that the Bonita avenue crossing should be closed. I recommend that the Hermosa avenue crossing should be granted, as asked for. A separation of grades at that point is not practicable.

The opening of this crossing will necessitate the rearrangement of certain tracks, viz: the headblock of the track indicated on the map filed with the application as the "Turntable track" should be moved northwesterly far enough to clear the north line of the proposed extension of Hermosa avenue, and the headblock of the siding on the east side of the Santa Fe main line track should be moved off the proposed crossing northerly on to the Santa Fe right of way.

The Pacific Electric Railway Company has a double track line both on Pacific avenue and Hermosa avenue up to the Santa Fe tracks. Across the tracks, however, the Pacific Electric cars operate over a single track. This will result in the switching of the Pacific Electric cars at the point of this crossing. I recommend, therefore, that the Pacific Electric Railway Company consider the double tracking of their line between Hermosa avenue and Pacific avenue over this crossing.

I recommend the following form of order:

ORDER.

The City of Redondo Beach, Los Angeles County, California, having on July 23, 1914, filed with the Commission an application for an order authorizing the construction of a public highway at grade across the tracks of the Atchison, Topeka and Santa Fe Railway Company and across the tracks of the Pacific Electric Railway Company, at the southerly terminus of Hermosa avenue, in said city of Redondo Beach; and a public hearing having been held in this case; and it appearing that the application should be granted subject to the conditions hereinafter specified,

It is hereby ordered, that permission be hereby granted the city of Redondo Beach, Los Angeles County, California, to construct a crossing at grade across the tracks of the Atchison, Topeka and Santa Fe Rail-

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way Company and the Pacific Electric Railway Company, at the point designated heretofore, and as shown by the map and profile attached to the application, and subject to the following conditions, viz:

(1) The crossing over the Santa Fe main line and side tracks immediately northwesterly of the proposed crossing, and known as the Bonita avenue crossing, shall be discontinued and abandoned.

(2) The crossing shall be constructed in accordance with the specifications of the city engineer's office in Redondo Beach, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) The entire expense of constructing the crossing, with the exception of the expense incident to the rearrangement of the existing tracks, shall be borne by applicant.

(4) The expense of maintaining the crossing up to two (2) feet on the outside of the Atchison, Topeka and Santa Fe Railway Company's and the Pacific Electric Railway Company's tracks shall be borne by applicant.

(5) The expense of maintaining the crossing between the tracks and two (2) feet on the outside thereof shall be borne respectively by the Atchison, Topeka and Santa Fe Railway Company and the Pacific Electric Railway Company.

(6) The sidings of the Atchison, Topeka and Santa Fe Railway Company, the headblocks of which now stand within the area of the proposed crossing, shall be moved as outlined hereinbefore.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance, and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

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DECISION NO. 1769.

IN THE MATTER OF THE APPLICATION OF BELVEDERE LAND COMPANY FOR AN ORDER ESTABLISHING RATES FOR WATER TO BE CHARGED TO THE TOWN OF BELVEDERE AND THE INHABITANTS THEREOF.

Application No. 1171.

TOWN OF BELVEDERE

vs.

BELVEDERE LAND COMPANY.

Case No. 645.

Decided, September 1, 1914.

Applicant, Belvedere Land Company, petitions the Commission to establish rates for water service in the town of Belvedere and also to fix a rate for fire hydrants, for which no rentals are collected at the present time, agreeing that if the present rates are found too low, no increase is desired. Town of Belvedere files a complaint, alleging that the rates of the Belvedere Land Company are unjust and exorbitant, and petitions the Commission to fix just rates for such service.

Held, After estimated valuation of the water system of the Belvedere Land Company, which valuation excludes that original portion of the system not at present useful in the performance of its duties; that the present rates are not unjust, and should be continued in effect. Rate of $1.00 per month per hydrant established.

Edgar M. Wilson, for Belvedere Land Company.

J. S. Hutchinson, city attorney, for Town of Belvedere.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

In these two proceedings, which were consolidated for hearing and decision, the Railroad Commission is requested to establish the rates to be charged by Belvedere Land Company for water supplied to the town of Belvedere and the inhabitants thereof.

In application No. 1171, petitioner alleges in part that its chief business is the purchase, subdivision, improvement and sale of land, but that as an incident thereto, petitioner is engaged in the business of buying water and selling it to persons living in Belvedere, Marin County, and also to certain persons living outside of Belvedere; that Belvedere has voted to confer upon the Railroad Commission its powers over public utility water companies; and that petitioner desires this Commission to establish fair and just rates to be collected by it for water sold to the town of Belvedere and the inhabitants thereof.

The complaint, in Case No. 645, alleges that the rates charged are too high, and ask that they be reduced to such rates as this Commission may find to be just and reasonable. A public hearing in these proceedings was held in San Francisco on August 10, 1914.

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Mr. Edgar M. Wilson, attorney for Belvedere Land Company, stated that if the Commission should find that the company may justly claim rates in excess of those now collected, the company will waive the excess over the existing rates, but asks the establishment of a rate for fire hydrants. The land company maintains some thirteen fire hydrants but has never been paid for this service. The company's offer was made for the reason that it is largely interested in Belvedere lands and does not desire the water rates to become so high as to keep people away from Belvedere.

In or about 1890, Belvedere Land Company commenced the construction of a water system for the purpose of assisting in the sale of its lands in Belvedere. Wells, pipes and a pump were installed on lots 12 and 13 in block 10, in the northeastern portion of the peninsula. One of these wells was made large enough to act to a certain extent as a storage tank. Tunnels were also driven into blocks 36, 37 and 38 on the west side of the peninsula and the water so developed was carried in a pipe line to the storage well.

It became evident in time that the water so developed would not be sufficient for the needs of Belvedere. It also appeared that when the wells were pumped down to 250 feet, the water became somewhat brackish. The land company accordingly looked about for another source of water supply and on May 13, 1904, entered into a contract with William A. Magee and James Newlands, Jr., joint owners of North Coast Water Company, under which contract the land company built a pipe line from Belvedere to Mill Valley, where it receives water from the North Coast Water Company for 20 cents per 1,000 gallons, measured at the point of connection just outside the limits of Mill Valley. The necessity of going so far for water, the losses due to electrolysis caused by the Northwestern Pacific Railroad Company's operation of electric trains at Alta, the expense of constructing the distribution system in Belvedere and the relatively small consumption in Belvedere, result in a comparatively high rate for water in Belvedere. The absurdity of expecting rates for water in one locality to be established in accordance with the rates in some other locality seldom appears more clearly than in the present case.

This Commission's hydraulic department made a careful estimate of the cost to reproduce those portions of the water properties which it considered properly chargeable to the Belvedere service, and of the depreciated reproduction value thereof and reported its conclusion as follows: Estimated reproduction cost, $45,517.00; estimated depreciated reproduction cost, $30,371.00. In depreciating the property, the straight line method was used, with no allowance for scrap value except in the case of meters. As I shall look to the estimated reproduction cost as representing approximately the investment, and not to the

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depreciated reproduction cost, it is not necessary to discuss the propriety of the method used to ascertain the depreciated reproduction cost. For a full discussion of these matters see the decision in *Town of Antioch* vs. *Pacific Gas and Electric Company*, Decision No. 1655, rendered on July 6, 1914.

The foregoing estimate of reproduction cost was made on the basis of an allowance of 20 per cent for overhead charges. I find on the evidence in this case that an allowance of 16 per cent is sufficient. On this basis, the hydraulic department's revised conclusions are as follows: Estimated reproduction cost, $44,541.00; estimated depreciated reproduction cost, $29,776.00.

In the foregoing computations, the hydraulic department did not include the wells, pumps and equipment on lots 12 and 13 in block 10, or the tunnel in blocks 36, 37 and 38. If these properties were included, the estimated reproduction cost would be increased by some $14,000.00 for the auxiliary system and at least $1,064.00 for the tunnel under block 36 alone, exclusive of the value of the land in each case. The result would be that the land company would be entitled to a material increase in its rates.

I find, however, as a fact that the properties so excluded should not properly be considered as used and useful in the supply of water to Belvedere. They are remnants of the former method of developing and distributing water and not necessary at present. Thus, the tunnel in blocks 37 and 38 is now used to supply water only to a fish company at its yard and wharves directly below the tunnel, for which service a flat rate of $10.00 per month is paid. There is no connection by which the water from this tunnel can at present be used for any other purpose. The tunnel under block 36 discharges water to a single customer through the pipe line which originally ran to the storage well in block 10. This customer is a tenant of the land company and pays a rental for the land which includes the water service. This tunnel and pipe line are no longer used for any other service.

The auxiliary pumping system has not been used since 1904 except once in 1913 at which time there was a fear, which was later shown to be unfounded in fact, that the water supply of North Coast Water Company would be depleted by the forest fire on Mt. Tamalpais. I am of the opinion that this auxiliary system, the reproduction cost whereof is estimated at $14,079.00, is entirely too expensive to justify its retention as part of the land company's water system if it be intended to base rates thereon. It would seem to be to the advantage of the land company to dispose of the auxiliary system and much cheaper if the company feels the necessity of providing additional storage, to construct a concrete-lined reservoir, with a capacity of say 2,000,000 gal-

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lons. There is doubt in my mind whether even this investment is necessary.

The rate for water now effective in Belvedere is as follows:

First 1,000 cubic feet	$0.50 per 100 cubic feet.
Over 1,000 cubic feet	.10 per 100 cubic feet.
Minimum rate	1.25 per month.
Shipping and other craft, delivered on the shore	.10 for each 20 gallons.

The revenue derived from these rates from Belvedere in 1913 amounted to $9,020.00. The maintenance and operating expenses chargeable to the water department during this year are difficult to ascertain because of the necessity of dividing certain salaries and other expenses between the land company's land business and its water business. Mr. R. W. Hawley, this Commission's hydraulic engineer, estimated that a reasonable allowance for operation and maintenance for 1913, including payments for water to North Coast Water Company, would be $5,930.00. Depreciation under the 4 per cent sinking fund method would be $862.00 annually. The following table shows the situation graphically:

TABLE 1.

Revenue, 1913		$9,020 00
Operation and maintenance	$5,930 00	
Depreciation	862 00	6,792 00
Remaining for interest on investment		$2,228 00

The resulting balance of $2,228.00 is sufficient to yield a return of only 5 per cent on the assumed investment of $44,541.00. It must be remembered, also, that no return is being allowed in this computation on any portion of the auxiliary system or the tunnels and appurtenances. While an increase in business, if it takes place, would relieve the situation, *pro tanto,* I am convinced on all the evidence in these proceedings that the present rates are no higher than they ought to be. They have been established by the town trustees over a series of years, and in view of Mr. Wilson's statement as to the land company's attitude, may reasonably be continued in effect.

As hereinbefore stated, the land company has undertaken to provide fire protection for Belvedere and has installed a number of fire hydrants for the town and for a few private individuals, but has never received pay for this service. The town has served notice that it will desire the installation of additional fire hydrants. The company can not reasonably be expected to perform this service gratuitously. The company suggested the purchase by it of two-inch meters to be inserted behind each fire plug, at a cost of some $60.00 for each hydrant. This would seem to be an unusual and unnecessary expense, but if the company desires to handle the problem in this way, there will be no objec-

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tion thereto, provided that the additional expense is not charged to the public. For the type of fire hydrants now installed, I find that the sum of $1.00 per month per hydrant is reasonable. If private individuals desire special fire protection and the installation of fire hydrants they should pay the same rate.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceedings and the same having been submitted and being ready for decision,

It is hereby ordered that Belvedere Land Company be and the same is hereby authorized to continue in effect, until the further order of the Railroad Commission, the existing rates for water supplied to the town of Belvedere and to the inhabitants thereof, except as to fire service, and that Belvedere Land Company be and the same is hereby authorized to collect for each fire hydrant of the present type the sum of $1.00 per month from the town of Belvedere for public fire hydrants and the sum of $1.00 per month from private consumers for each private fire hydrant.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

Decision No. 1770.

IN THE MATTER OF THE APPLICATION OF BAY CITIES HOME TELEPHONE COMPANY, PACIFIC TELEPHONE AND TELEGRAPH COMPANY, AND CITY OF BERKELEY FOR AN ORDER AUTHORIZING THE TRANSFER AND ASSIGNMENT OF A FRANCHISE, AND FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF SUCH FRANCHISE.

Application No. 1285.

Decided September 1, 1914.

Application of the Bay Cities Home Telephone Company and The Pacific Telephone and Telegraph Company, the former to transfer to the latter its fifty-year franchise in the city of Berkeley, which application is joined in by said city in consideration that the Pacific Company accept such franchise with all obligations as granted to the original company, which obligations secure to the city during the term of the franchise 75 free telephones and 2 per cent of the gross receipts of the company operating thereunder. Pacific Company also applies for a certificate of public convenience and necessity authorizing the exercise of rights and privileges under this franchise.

Held, Application granted, provided, that Pacific Company shall stipulate to abide by all provisions in accordance with which the transfer of such franchise was consented to and that the price paid for the physical properties of the Bay Cities Home Telephone Company shall not be presented before a rate fixing body as the real value of that property.

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William Thomas, for Bay Cities Home Telephone Company.

Pillsbury, Madison & Sutro and *Felix T. Smith,* for Pacific Telephone and Telegraph Company.

Frank V. Cornish, city attorney, for City of Berkeley.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application by Bay Cities Home Telephone Company for authority to assign a certain franchise to Pacific Telephone and Telegraph Company and of the latter company for a certificate that public convenience and necessity require the exercise by said company of the rights granted by said franchise. The City of Berkeley joins in the application. A public hearing on said application was held in the City Hall, Berkeley, on August 29, 1914. The entire city council was present. No one appeared in opposition.

The franchise referred to was granted by the town of Berkeley to Home Telephone Company of Alameda County, on January 28, 1907, by Ordinance No. 468-A, and was later assigned by the grantee to Bay Cities Home Telephone Company, one of the applicants herein. A copy of said ordinance is attached to the petition herein, and marked "Exhibit A," and reference is hereby made thereto.

Ordinance No. 468-A grants to Home Telephone Company of Alameda County, its successors and assigns, for the period of fifty years, the right to use the public streets of Berkeley for the construction and operation of a telephone system. Among other provisions, are the following:

1. The telephone company agrees to furnish fifty free telephones for the use of the city.

2. The telephone company agrees to pay to the city, after five years, as provided by the Broughton Act, 2 per cent of its gross revenue from business under the franchise.

3. Paragraph five provides in part as follows:

> "That the said grantee, his or its successors or assigns, shall not without the consent of the town of Berkeley, evidenced by ordinance duly passed by the board of trustees thereof, sell or transfer its property or any of the rights or privileges authorized or granted by said franchise to any person, company, combination, trust or corporation now engaged in the telephone business in the town of Berkeley, and shall not at any time enter into any agreement directly or indirectly with any person, company, trust, combination or corporation now engaged in the telephone business in the town of Berkeley concerning the rate to be charged for telephone service."

4. The telephone company agrees to furnish the city wires in its cables for the city's fire alarm and police telegraph systems and to

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allow the city to install wires for these purposes in the underground conduits and upon the poles of the telephone company.

5. Provision is made for the purchase of the telephone company's property by the city at the termination of the franchise at a price to be fixed by arbitration under a method prescribed by the ordinance.

At the time this ordinance was adopted, Sunset Telephone and Telegraph Company, the predecessor of Pacific Telephone and Telegraph Company, was engaged in the telephone business in Berkeley. The undoubted purpose of paragraph five of Ordinance No. 468-A was to prevent the consolidation of the existing or Bell system with the new and competing Home system, unless the city's consent had been first secured. Nevertheless, on March 15, 1912, Bay Cities Home Telephone Company transferred all its physical properties in Berkeley, through the instrumentality of Home Long Distance Telephone Company, a corporation created for that purpose, to Pacific Telephone and Telegraph Company, the rival company, without securing the consent of the city of Berkeley. The city thereafter brought suit in the superior court of Alameda County to set aside the conveyance as void for the reason that the city's consent had not been secured. A general demurrer to the complaint was sustained on the ground that any corporation may dispose of its property by consent of two thirds of its stockholders, and that Berkeley had no power to impose the additional requirement that the city's consent should be secured before such disposition could be made. The net result of these transactions was that the Home Telephone Company of Alameda County secured from the public valuable privileges freed from the condition which the public authorities in good faith thought they were attaching thereto.

I do not deem it necessary to comment upon the ethics of such conduct. The transaction speaks for itself. As Pacific Telephone and Telegraph Company, however, is now to become the beneficiary of the rights granted by Ordinance No. 468-A, I believe that, in all honesty and decency, it should not be allowed to exercise rights under this ordinance unless it will agree, in good faith, to take the rights granted by the ordinance subject to all the conditions specified therein, without any intention to try to break any condition which may not hereafter be to the company's liking. Pacific Telephone and Telegraph Company agreed at the hearing that this position is fair and just. An appropriate condition will be inserted in the order herein.

The transfer of physical properties from Bay Cities Home Telephone Company to Pacific Telephone and Telegraph Company was made, as hereinbefore stated, on March 15, 1912. By making this transfer eight days before the effective date of the Public Utilities Act, the parties avoided the necessity of applying to the Railroad Commission for authority to make the transfer and deprived the cities of San Fran-

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cisco, Oakland and Berkeley of the protection which the necessity of application to the Railroad Commission would have accorded them. The Bay Cities Company, however, failed to transfer its franchise. Hence it becomes necessary now, under the provisions of sections 50 and 51 of the Public Utilities Act, to secure this Commission's authorization before this company can transfer its franchise and before Pacific Telephone and Telegraph Company can exercise rights thereunder.

The Pacific Telephone and Telegraph Company already has a franchise in Berkeley, as successor of Sunset Telephone and Telegraph Company. This franchise was granted to the latter company on August 13, 1894, by Ordinance No. 573 of the town of Berkeley. This franchise was granted without consideration and without any provision for the payment to the city of any percentage of gross income. The term of this franchise is twenty-five years. The franchise accordingly expires on August 13, 1919, at which time it would be necessary for Pacific Telephone and Telegraph Company to secure a new franchise. Under the provisions of the Berkeley charter, such new franchise would expire within not to exceed thirty-five years, or two years before the expiration of the Home Telephone Company franchise, and would subject the recipient thereof, under the provisions of section 77 (2) of the Berkeley charter, to a payment to the city of percentages of gross receipts not less than 2 per cent during the first ten years, 3 per cent during the second ten years, 4 per cent during the third ten years and 5 per cent during the remaining life of the franchise. It is accordingly of decided advantage to the Pacific Company to secure an assignment of the Home Telephone franchise, under which only 2 per cent of the gross receipts must be paid to the city instead of waiting and securing a new franchise in 1919. While the city of Berkeley gains 2 per cent on the company's gross revenue between 1914 and 1919, it loses the revenue in excess of 2 per cent after 1919.

In settlement of all matters of dispute, Bay Cities Home Telephone Company, Pacific Telephone and Telegraph Company and city of Berkeley have reached an agreement which is embodied in a proposed ordinance which was ordered printed by the city council of Berkeley on August 7, 1914. A copy of this proposed ordinance is attached to the petition herein and is marked "Exhibit C." Reference is hereby made thereto.

The ordinance provides in part as follows:

1. Berkeley consents to the sales of March 15, 1912.

2. Berkeley consents to the transfer to Pacific Telephone and Telegraph Company of the franchise granted by Ordinance No. 468-A.

3. Pacific Telephone and Telegraph Company agrees to pay to the city of Berkeley 2 per cent of gross receipts annually as prescribed by Ordinance No. 468-A.

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4. Pacific Telephone and Telegraph Company agrees to furnish seventy-five free telephones for the use of the city of Berkeley.

5. Pacific Telephone and Telegraph Company agrees to surrender its existing franchise.

6. Bay Cities Home Telephone Company, the Home Telephone Company of Alameda County and the sureties on the bond of the former company shall be discharged from liability and the suit brought by the city of Berkeley shall be dismissed.

While the ordinance provides that the agreement therein provided for "shall cancel and supersede all existing agreements and arrangements for furnishing telephone service to the city of Berkeley," Pacific Telephone and Telegraph Company's representatives stated that it is not intended by this language to diminish the obligation of the grantee under Ordinance No. 468-A with reference to the city's fire alarm and police telegraph systems and that the company assumes all the obligations specified in said ordinance except in so far as expressly changed by the proposed new ordinance.

Pacific Telephone and Telegraph Company agreed that the provisions as to free telephones for the city be deemed effective as of August 1, 1914.

After the acquisition of the property of Bay Counties Home Telephone Company, Pacific Telephone and Telegraph Company increased its plant account by the amount paid for this property, although a large portion thereof represents useless duplication and other portions have been "scrapped" by the new purchaser. The public interest clearly demands that the order asked for in this proceeding should not be made except on condition that the price paid for this property shall not be taken before the Railroad Commission or any other public authority as representing for rate fixing or any other purpose the real value thereof. The order herein will contain such a condition.

The telephone companies and the city of Berkeley have all agreed upon the settlement hereinbefore outlined. This settlement is a reversal of the policy of competition which the city council intended to establish when Ordinance No. 468-A was adopted. That the failure of the Bell company at that time to give efficient and courteous service in Berkeley justified competition can not be doubted. At that time there was no strong public authority to compel good service and competition was the only means to secure it. This Commission will observe carefully the service given by the Bell company under the restored condition of monopoly brought about by the ordinance of settlement, to see whether the company will now voluntarily give efficient service, and, if not, whether the public authorities are strong enough to compel such service. If such service is not given, the only alternative is public ownership.

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I recommend that the application be granted, but only on the conditions specified in the order.

I submit the following form of order:

ORDER.

Bay Cities Home Telephone Company having applied to the Railroad Commission for an order authorizing the transfer to Pacific Telephone and Telegraph Company of the rights and privileges granted by the town (now city) of Berkeley on January 28, 1907, by Ordinance No. 468-A, and Pacific Telephone and Telegraph Company having applied for a certificate that public convenience and necessity require and will require the exercise by it of said rights and privileges, and the city of Berkeley having joined in said application, and a public hearing having been held thereon,

The Railroad Commission hereby authorizes said transfer and declares that the public convenience and necessity require the exercise by Pacific Telephone and Telegraph Company of said rights and privileges, but only on the following conditions and not otherwise:

1. This order shall not become effective unless the city of Berkeley shall first have enacted an ordinance substantially in the form of the proposed ordinance attached to the petition herein and marked "Exhibit C."

2. This order shall not become effective unless Pacific Telephone and Telegraph Company shall file with the Railroad Commission within twenty days after the final adoption of such ordinance by the city of Berkeley, a stipulation executed on behalf of said company by its officers thereunto duly authorized by a resolution of its board of directors, agreeing as follows:

(*a*) That the company accepts the transfer of the rights and privileges granted by the city of Berkeley by Ordinance No. 468-A in good faith intending to abide by every provision thereof except in so far as expressly modified by the provisions of the ordinance of settlement to be adopted by the city of Berkeley.

(*b*) That the company accepts the provisions of the ordinance of settlement of the city of Berkeley, intending in good faith to abide thereby.

(*c*) That the price paid for the physical properties of Bay Counties Home Telephone Company in Berkeley shall not be taken before the Railroad Commission or any other competent public authority as representing for rate making or any other purpose the real value of the property.

3. The Railroad Commission reserves the right to revoke this order if Pacific Telephone and Telegraph Company fails to comply with any of the provisions of its settlement with the city of Berkeley.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

DECISION NO. 1771.

IN THE MATTER OF THE APPLICATION OF DEATH VALLEY RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF CERTAIN BONDS.

Application No. 836.

Decided September 1, 1914.

Applicant previously authorized to issue bonds of the face value of $230,351.00 and stock of the par value of $75,000.00 for the purposes of constructing a road from a point on the Ryan branch of the Tonopah and Tidewater Railroad to a certain borax mine now finds that it underestimated the cost of such road and also desiring to construct an additional mile, applies for permission to issue additional bonds of the face value of $99,348.00 to be sold under conditions prescribed in original order.

Held, Application granted, provided that applicant shall first sell the stock previously authorized and that the bonds herein authorized shall be guaranteed by the Borax Consolidated Company, Ltd., as to payment of interest and principal.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

SUPPLEMENTAL OPINION.

In its decision No. 1330, dated March 10, 1914, this Commission authorized Death Valley Railroad Company to issue 473 bonds of 100 pounds sterling each of British money, equivalent approximately to a total face value of $230,351.00, and to issue $75,000.00 of stock for the purpose of obtaining funds to construct a narrow gauge railroad 17 miles in length in Death Valley.

The applicant was authorized to sell the bonds at 90 per cent of their face value and the stock at par. The railroad as projected begins at a point on the Ryan branch of the Tonopah and Tidewater Railroad, 3½ miles from Death Valley Junction, and runs thence in a general northwesterly direction through the mountains and across the open desert to the Biddy McCarty Borax mines. The railroad is designed to serve the Biddy McCarty borax mine which is owned by the Borax Consolidated, Ltd. of London.

It now appears that the applicant proposes to build an additional mile of line. It appears further that applicant's original estimates were lower than actual cost. Accordingly, application is now made for authority to issue, in addition to the bonds previously authorized,

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204 bonds of 100 pounds sterling each of British money, or a total face value of 20,400 pounds sterling, the equivalent in money of the United States, at the ratio of $4.87 per English pound, of approximately $99,348.00.

Applicant proposes to issue these 204 additional bonds under the same trust deed securing the issue as previously authorized by this Commission, and these additional bonds will also be guaranteed, as were the 473 bonds previously authorized, by the Borax Consolidated, Ltd. This guarantee will appear upon the face of the bonds.

I recommend that the application be granted and submit the following form of order:

SUPPLEMENTAL ORDER.

Application having been made to the Railroad Commission of the State of California for a supplemental order authorizing the issue by Death Valley Railroad Company of 204 bonds of a total face value of 20,400 pounds sterling, money of Great Britain, and it appearing to the Commission that said application should be granted under the conditions set out in this order, and that the proceeds to be derived from the sale of the bonds herein authorized to be issued are necessary for the purpose of completing the construction of applicant's line of railway and are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered, by the Railroad Commission of the State of California, that Death Valley Railroad Company be authorized and it is hereby authorized to issue 204 bonds of a face value of 100 pounds sterling each, money of Great Britain, to bear interest at the rate of 5 per cent per annum, and to be payable over a period of ten years from March 1, 1914.

The authority herein given to Death Valley Railroad Company is given upon the following conditions and not otherwise:

1. Said bonds shall be issued under applicant's trust deed on file with the application herein, being the same trust under which this Commission authorized the applicants herein, in Decision No. 1330, to issue 473 bonds of 100 pounds sterling each.

2. The proceeds to be derived from the sale of the bonds herein authorized shall be used for the purpose of completing applicant's line of railway, and for the items set out in applicant's Exhibit "B," as filed with the supplemental application herein.

3. The bonds herein authorized shall be sold so as to net Death Valley Railroad Company not less than 90 per cent of their face value.

4. Before applicant shall spend any of the money derived from the sale of the bonds herein authorized it shall have sold the $75,000.00 of capital stock authorized in Decision No. 1330 of this Commission.

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5. Before selling any of the bonds herein authorized, Borax Consolidated Company, Ltd., shall execute a guarantee of the payment of the principal and interest of said bonds, and said guarantee shall appear upon the face of each of the bonds issued.

6. Said company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of said bonds and the purpose of such bonds during the preceding month, the terms or conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

7. The authority hereby given to issue such bonds shall apply only to such bonds as shall have been issued on or before March 1, 1915.

8. The payment of the fee prescribed in Section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

DECISION NO. 1772.

IN THE MATTER OF THE APPLICATION OF THE MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF NOTES.

Application No. 1095.

Decided September 1, 1914.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SUPPLEMENTAL ORDER.

This Commission having issued its Decision No. 1541 in the above entitled matter on May 23, 1914, authorizing the applicant herein to renew promissory notes to the amount of $163,269.27, and the applicant herein having now asked for a modification of said order so that notes in favor of John A. Roebling's Sons Company, in the amount of $12,679.99 and $10,477.12, shall bear interest at the rate of 7 per cent per annum,

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It is hereby ordered that the notes which the applicant herein is authorized to issue under Decision No. 1541 of this Commission to John A. Roebling's Sons Company, in the sum of $12,679.99 and $10,477.12, shall bear a rate of interest not to exceed 7 per cent per annum.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

DECISION NO. 1773.

THOMAS L. TURNER ET AL.

vs.

SWEETWATER WATER COMPANY, CITY OF NATIONAL CITY, AND CITY OF CHULA VISTA, INTERVENORS.

Case No. 598.

Decided September 1, 1914.

Complainants petition the Commission to compel defendant to serve them with water, which service is protested by intervening cities on the ground that if service is given complainants it will materially affect the supply to the cities named.

Held, Parties in interest reaching an agreement satisfactory to all, by which complainants may receive water, complaint dismissed.

Tyndale Palmer, for Complainants.

Hunsaker & Britt, A. H. Sweet, and *F. Jennings*, for Defendant.

Johnson W. Puterbaugh, for Intervenor, City of National City.

F. B. Andrews, for Intervenor, City of Chula Vista.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is a complaint whereunder complainants ask that Sweetwater Water Company be compelled to give them service of water upon a tract called Millerton, near the town of San Diego, upon which no water service is now given by defendant.

The cities of Chula Vista and National City intervened in opposition to complainants, alleging that to extend this additional and new service to this tract would deplete the supply of the citizens of these two respective cities, who are dependent upon this defendant company for water service.

A partial hearing was had in the city of San Diego, but before the completion thereof, at the request of all parties, a continuance was had in order that consideration might be given to a possible compromise.

An agreement has now been reached, evidenced by writing and joined in by all the parties to this action, of which the approval of the Commission is asked, and if approved it is requested that this case be dis-

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missed. In the main this agreement provides for diverting from a tract of land under defendant's water system a portion of the water service belonging to said tract, and using such diverted portion upon the Millerton tract here in question. This, of course, in no wise depletes the present supply of any consumer except the owner of the tract from which a portion of the water supply is taken, and this is done with his consent, evidenced by his joining in the agreement submitted.

The contract is in considerable detail, and provides conditions under which the service is to be given the new tract, and also expressly provides that this agreement shall in no wise be used as a declaration or admission by defendant Sweetwater Water Company of any obligation to serve any but present consumers.

I think this agreement should be approved and the action dismissed. Of course it should be understood that the conditions of service set out in this contract are applicable to this particular tract, and are approved because agreed to by all parties. This condition, of course, can not be used as a precedent in determining service in other cases under this system.

I submit herewith the following form of order:

ORDER.

Complaint having been made by Thomas L. Turner et al. against Sweetwater Water Company, and National City and the City of Chula Vista having intervened, and a partial hearing having been had and all of the parties hereto having joined in an agreement settling all of the issues herein and asking that this agreement be approved and the case dismissed,

It is hereby ordered, by the Railroad Commission of the State of California, that the contract submitted herein, signed by all the parties to this action, be and the same is hereby approved, copy of this said contract being on file herein and reference to which is hereby made.

It is further ordered that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

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DECISION NO. 1774.

WESTERN STATES GAS AND ELECTRIC COMPANY
vs.
SIERRA AND SAN FRANCISCO POWER COMPANY.

Case No. 565.

Decided September 1, 1914.

Complainant alleged that the rate of respondent for electric energy was unjustly high and subsequent to the hearing both parties agreeing upon a reduced schedule of rates, effective until January, 1924, applied for the approval of such schedule and the dismissal of the complaint.

Held. Proposed schedule approved for a period of five years, and complaint dismissed.

Nutter & Orr, for Complainants.

Lilienthal, McKinstry & Raymond, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

Western States Gas and Electric Company complained against the Sierra and San Francisco Power Company and alleged that the rates charged it by the defendant for electrical energy were unduly high. Answer was made by defendant and a hearing was had and the matter submitted.

Thereupon, and before a decision was rendered herein, complainant and defendant came together and agreed upon a modification of the rates theretofore in effect and of which complaint was made herein.

This new contract provides a considerable reduction in rates and is joined in by both of the parties hereto. The Commission is asked to approve this contract and to dismiss the action.

I believe the contract should be approved for a term of five years instead of until January, 1924, as provided in the agreement.

I suggest this action because the whole status of the generation and delivery of electrical energy changes to such a marked degree from time to time that to make an agreement now to be binding until 1924 is, in my judgment, unwise. I think the Commission's approval should be for a period of five years.

I submit herewith the following form of order:

ORDER.

Complaint having been made by Western States Gas and Electric Company against Sierra and San Francisco Power Company, and a hearing having been had, subsequent to which both of the parties hereto have joined in a written agreement settling all of the issues herein, and have asked that this agreement be approved by the Commission and the action dismissed,

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It is hereby ordered, by the Railroad Commission of the State of California, that the contract entered into by the parties hereto is hereby approved; provided, however, that this approval shall extend only for a period of five years from the date of this order. This contract is on file herein, reference to which is hereby made.

It is hereby further ordered that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

DECISION NO. 1775.

IN THE MATTER OF THE APPLICATION OF VARIOUS CARRIERS TO ESTABLISH RULES AND REGULATIONS WITH REFERENCE TO USE OF DRAWING ROOM AND COMPARTMENT IN STANDARD PULLMAN SLEEPING CARS.

Application No. 1007.

Decided September 1, 1914.

Applicants, various carriers operating within the State of California, applying for permission to increase the present rates to passengers occupying drawing rooms or compartments, contend that when a single person occupies such accommodations they receive an additional service and should be required to pay an additional fare.

Held, That passengers occupying accommodations mentioned do receive an additional service, but that such service is paid for in the cost of Pullman tickets. That if the carriers do not receive additional compensation their contract with the Pullman Company is at fault, and that passengers should not be required to pay, in addition to the increased cost of Pullman tickets, the increase in fare as applied for. Application dismissed.

C. W. Durbrow and *E. W. Camp*, for applicants.

Seth Mann and *Wm. R. Wheeler*, for San Francisco Chamber of Commerce.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, Western Pacific Railway Company, and Tonopah and Tidewater Railroad Company for permission to charge an increased or additional passenger rate for persons traveling in drawing rooms or compartments in Pullman sleeping cars.

The present rate requires only one ticket for each person traveling

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in a Pullman car regardless of whether such person occupies a seat or an entire compartment or drawing room.

The request of these railroads is that they be allowed to charge extra railroad fares for persons occupying compartments or drawing rooms alone, the contention being that where one person occupies a drawing room or a compartment he is being given additional or more service or service of a different character than that which is given a person occupying a seat, and that it is not fair to the railroad to compel it to haul the comparatively large amount of space occupied by a drawing room or a compartment for the same remuneration which it receives for hauling the space occupied by a single seat. Furthermore, it is contended that it is a discrimination as between passengers to charge the same price for these different services. The railroads further urge that if permitted to charge additional fares for the use of drawing rooms and compartments, individuals will not be as prone to use these facilities as they now are, and hence they will be available for the use of families and persons who really need such accommodations.

The Chamber of Commerce appeared by Wm. R. Wheeler and Seth Mann and protested against this proposed increase. They called attention to the fact that the traveler paid the Pullman Company more for the drawing room or compartment than for a seat, and that this additional payment was all that should be charged for the greater or additional service. Furthermore, that if the railroads were entitled to greater compensation for the service performed in relation to drawing rooms and compartments, this compensation should be sought by way of a revision of the contract between the Pullman Company and the railroads.

I am impressed with the fact that a person traveling in a drawing room or in a compartment is receiving a greater service or an additional service than a person traveling in a seat or who occupies one berth, but I am not convinced that the additional price charged for the compartment or drawing room by the Pullman Company is not adequate consideration for this additional service.

It may well be that the railroad is not receiving a fair share of the compensation paid for this additional service, but this result is brought about by the contract entered into by the railroad and the Pullman Company.

Considering the matter from the standpoint of the traveler, there is no evidence presented or offered to show that when he pays the additional amount required by the Pullman Company for the use of a drawing room or compartment he is not adequately paid for this additional service. This being true, to compel him to pay in addition an extra passenger fare would unjustly burden him, and I do not see how we can sanction any increase in the cost of transportation to the traveler

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without an adequate showing that the present cost to him is unduly low.

In other words, it seems to me that this Commission has not been put in a position by the railroads to pass upon the real question at issue, to wit: Should the passenger pay more for the service which he is now receiving?

I therefore recommend that this application be denied and dismissed.

I submit herewith the following form of order:

ORDER.

Application having been made by Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, Western Pacific Railway Company, and Tonopah and Tidewater Railroad Company for permission to charge an increased or additional passenger fare for persons traveling in drawing rooms or compartments in Pullman sleeping cars, and a public hearing having been had on said application and the Commission being fully apprised in the premises,

It is hereby ordered, by the Railroad Commission of the State of California, that said application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of September, 1914.

Decision No. 1776, grade crossing; not printed. See end of volume.

DECISION NO 1777.

HERMAN K. STOLBERG

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 646.

Decided September 3, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled action having, on August 31, 1914, made written request to this Commission that the above entitled case be dismissed,

It is hereby ordered that the above entitled case be, and the same is, hereby dismissed.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of September, 1914.

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Decision No. 1778.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA NAVIGATION AND IMPROVEMENT COMPANY FOR AUTHORITY TO INCREASE CERTAIN CLASS AND COMMODITY RATES BETWEEN SAN FRANCISCO AND SAN JOAQUIN RIVER POINTS.

Application No. 856.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA TRANSPORTATION COMPANY FOR AUTHORITY TO INCREASE CERTAIN CLASS AND COMMODITY RATES BETWEEN SAN FRANCISCO AND SAN JOAQUIN RIVER POINTS.

Application No. 857.

IN THE MATTER OF THE APPLICATION OF FARMERS' TRANSPORTATION COMPANY TO INCREASE CERTAIN RATES AND ALTER RULES AND REGULATIONS SO AS TO EFFECT INCREASES IN RATE BETWEEN SAN FRANCISCO AND SACRAMENTO.

Application No. 831.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSPORTATION COMPANY FOR RELIEF FROM PROVISIONS OF SECTION 21, ARTICLE 12, OF THE CONSTITUTION OF CALIFORNIA.

Application No. 832.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY TO INCREASE CERTAIN CLASS AND COMMODITY RATES VIA STEAMER LINE BETWEEN SAN FRANCISCO AND SACRAMENTO RIVER POINTS.

Application No. 833.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSPORTATION COMPANY TO INCREASE CERTAIN CLASS AND COMMODITY RATES BETWEEN SAN FRANCISCO AND SACRAMENTO RIVER POINTS.

Application No. 834.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO TRANSPORTATION COMPANY FOR PERMISSION TO INCREASE CERTAIN CLASS AND COMMODITY RATES VIA STEAMER LINE BETWEEN SAN FRANCISCO AND SACRAMENTO.

Application No. 891.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE RATES FOR TRANSPORTATION OF FREIGHT BY WATER BETWEEN SAN FRANCISCO, STOCKTON, SACRAMENTO AND INTERMEDIATE POINTS.

JACKSON MERCHANTS' ASSOCIATION, INTERVENOR; FARMERS' EXCHANGE, COURTLAND, INTERVENOR.

Case No. 534.

Decided September 1, 1914.

Various carriers operating upon the Sacramento and San Joaquin rivers, contending that their present rates on freight shipments are unremunerative, petition the Commission for permission to increase certain rates, to change certain commodity rates to a class basis, and to increase minimum rates in certain instances.

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Held, That California Navigation and Improvement Company and California Transportation Company in their showing for an increase in freight rates between San Francisco and San Joaquin River points place practically the entire cost of operation against the freight service irrespective of a considerable amount of passenger business, claiming that it would cost just as much to operate their boats if such boats were operated for freight exclusively; that no increase could be allowed on such an erroneous method of apportioning expenses. Applications dismissed.

Held, Farmers' Transportation Company applies for permission to change certain commodity rates to a class basis, admitting that such change would effect a 5 per cent increase in gross revenue, and no showing being made which would warrant such an increase, application dismissed without prejudice to its renewal when such changes can be effected so as not to permit of an increase in the existing rates.

Held, California Transportation Company and Southern Pacific Company permitted to cancel commodity rates applying on 5,000 and 10,000 pound lots between Sacramento and San Francisco only, provided that other commodity rates satisfactory to shippers be established, thereby eliminating violations of the long and short haul provision.

Held, That the San Joaquin River situation is a clear example of the evils of competition; that the contended failure of these lines to receive a fair return under present rates, lies mainly in the fact that there is insufficient tonnage to be moved between these points to properly load the number of boats operated, yet the public is expected to pay a rate permitting of a return on the entire duplicated equipment; that if these lines were not receiving a fair return the public is not obligated to pay rates which would permit of a return upon equipment not necessary in its service.

George D. Squires, for Southern Pacific Company.

W. A. Breen, for California Navigation and Improvement Company.

W. H. Metson, for California Transportation Company.

W. D. Herryford, for Farmers' Transportation Company.

P. J. Harney, for Sacramento Transportation Company.

William R. Wheeler and *Seth Mann*, for San Francisco Chamber of Commerce.

Seth Mann, for Farmers' Exchange.

C. Clifford and *A. D. Dennison*, for Oakland Chamber of Commerce.

J. B. Wrangham, for California Almond Growers' Exchange.

S. E. Semple, for Stockton Chamber of Commerce.

B. Blow, for Napa Chamber of Commerce.

F. Allyn Orr, for Amador County Mine Owners.

George J. Bradley, for Sacramento Traffic Association.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

OPINION.

These applications are for authority to make certain increases or changes that result in increases in the rates for the transportation of freight on the Sacramento and San Joaquin rivers.

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Application No. 856 of the California Navigation and Improvement Company is for authority to increase certain class rates between San Francisco and Oakland, on the one hand, and Crockett, Benicia, Martinez, Pittsburg, Antioch, and Stockton, on the other hand; also between Stockton and Crockett, Benicia, Martinez, Pittsburg, and Antioch and between certain specified intermediate points. It also asks permission to cancel certain commodity rates and to increase other commodity rates and the minimum weights applying in connection with certain commodity rates. In justification of the proposed change the petitioner alleges that the present rates are unremunerative.

Application No. 857 of the California Transportation Company asks for permission to make the same changes in the class and commodity rates of that company on the San Joaquin River as the changes sought by the California Navigation and Improvement Company in its application, and similarly the petitioner in justification of the proposed increases alleges that the present rates are unremunerative.

Application No. 831 of the Farmers' Transportation Company is for permission to cancel certain commodity rates applying between San Francisco and Sacramento (between which points, only, this company operates) and thereafter apply class rates for the movement of such traffic. This would result in increases in the rates on many commodities. In justification of this change the applicant urges that at present it maintains in its tariffs specific commodity rates only and that this method of stating rates has proven inconvenient and impracticable in its operation and that it is now desired to change this method and provide a scale of class rates subject to the classification of freight provided in the Western Classification, except that in a few cases special commodity rates will be continued. The applicant alleges that the result of the substitution of the proposed class scale and Western Classification ratings for the present commodity rates will be to increase its gross revenue approximately 5 per cent, but that it proposed to maintain between San Francisco and Sacramento a lower scale of rates than is maintained by other lines operating between those points that offer a more frequent service. The applicant operates but one steamer a week between San Francisco and Sacramento, and contends that a lower scale by its line is necessary as an inducement to shippers to hold freight for applicant's steamer.

Application No. 853 of the Southern Pacific Company asks permission to cancel many commodity rates applying on 5,000-pound and 10,000-pound lots between San Francisco and Sacramento only by its steamer line, and to substitute therefor class rates in some cases and in others the same commodity rate but a greater minimum weight. This petitioner also seeks authority to make certain increases in the class rates applying between San Francisco and Crockett, Port Costa, Benicia, Mail

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Dock, South Vallejo and North Vallejo, and intermediate points via its steamer line. In justification of this change the petitioner contends that it desires to eliminate the commodity rates on freight in 5,000-pound and 10,000-pound lots applying between San Francisco and Sacramento only so as to remove the violation of the long and short haul provision of the constitution, and because differences in rates conditioned on such small quantities are improper and discriminatory, and generally that the rates which it seeks to increase are unremunerative.

Application No. 834 of the California Transportation Company seeks authority to cancel many commodity rates applying on 5,000-pound and 10,000-pound lots of freight between San Francisco and Sacramento only and in place thereof to substitute class rates in some cases and in other cases the same commodity rate but a greater minimum weight. In justification of the changes proposed the petitioner alleges that it desires to eliminate the commodity rates on 5,000-pound and 10,000-pound lots so as to remove the violation of the long and short haul provision of the constitution which these rates effect, and because differences in rates based on such quantities are improper and discriminatory.

Application No. 891 of the Sacramento Transportation Company likewise asks for permission to cancel many commodity rates applying on 5,000-pound and 10,000-pound lots of freight between San Francisco and Sacramento, and to substitute therefor class rates in some cases and in other cases the same commodity rate but a greater minimum weight. In justification of the proposed changes this petitioner alleged that the present rates are unremunerative. The petitioner, subsequent to the filing of its original application, asked leave and was granted permission to withdraw same. Therefore, it will not be necessary to further consider this application.

Case 534 was instituted by the Commission on its own motion, for the purpose of bringing before it the entire operations of these applicants and enabling the Commission to make such an order in the matter as the evidence submitted would seem to justify.

The Jackson Merchants' Association of Jackson, Amador County, asked leave and was granted permission to file a petition in intervention in Application No. 857, praying that the application of the California Transportation Company be denied and that such other and further relief be granted as the Commission might find proper in the premises.

The Farmers' Exchange of Courtland, an association of farmers and fruit growers engaged in the raising and shipping of fruits, vegetables and produce at or near river landings on the Sacramento River, between San Francisco and Sacramento, asked leave and was granted permission to intervene in Case No. 534. This intervenor complains that the present rates charged by the California Transportation Company and Southern Pacific Company for the transportation of fruit, vegetables,

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and produce between San Francisco and Sacramento and intermediate points and river landings are unreasonable, unjust and excessive, and asks the Commission to fix reasonable rates for such service.

The principal witness for the California Navigation and Improvement Company testified that that company operated two steamers—the "J. D. Peters" and the "T. C. Walker"—in the San Francisco-Stockton service, the rates via which route it proposed to increase, and that during the fiscal year ending May 31, 1913, the total freight earnings of these steamers were $163,068.79, while the expense incident to the operation of these steamers was $215,742.83. The witness testified that this expense included only such expenditures as were properly chargeable to the freight service, but admitted that the entire cost of the fuel used in the operation of these boats was charged to the freight service and that similar items were likewise charged to the freight service regardless of the fact that these same boats carried passengers, and that the revenue from that traffic was not immaterial, upon the theory that the cost of the fuel for operating these boats would approximate that amount, were no passengers whatsoever transported. This plan was followed in making all calculations as to the expense of operating the freight service. The method of ascertaining the expense of this service is, in my opinion, wholly incorrect and contrary to the principles laid down by the courts for ascertaining the cost of service in such cases. (*Simpson* vs. *Shepard*, 230 U. S. 352.) Each service should bear its proportionate expense and neither one nor the other should be burdened with the entire expense of operation on the theory that the expense would continue though a particular service were discontinued. The error of this method is so aggravated as to vitiate the entire showing. I am, therefore, unable to find from the evidence that the present rates of this line between San Francisco and Stockton and intermediate points are unremunerative.

Similar testimony was offered by the California Transportation Company in justification of its application to increase the rates between San Francisco and Stockton by its line, but for the same reasons as those heretofore given in considering the evidence given by the witness for the California Navigation and Improvement Company, I am unable to find that the rates of the California Transportation Company between San Francisco and Stockton are unremunerative and that it should therefore be permitted to increase them.

The evidence also shows that there was at one time acute competition on the San Joaquin River between the various boat lines plying thereon. I am impressed, however, that at the present time the actual competition is not as potent as it once was. The testimony shows that the largest single stockholder in the California Navigation and Improvement Company is also the largest single stockholder in the California Transportation Company, and, although it is not proven that the relationship be-

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tween these companies is such as to indicate an agreement, yet I am inclined to believe that they do not deal entirely at arm's length. The principal complaint is that the boats of these lines are not loaded sufficiently near capacity to make their operation profitable. This interesting situation is presented:

Two competing lines driving down the rates to a point lower than would otherwise exist now apply to this Commission for an increase in rates on the ground that the duplication of facilities on the San Joaquin River has made it impossible for either line to secure sufficient traffic to make its business profitable. Hence, the rates of both lines must be increased and the measure of the increase is determined by the alleged losses of the two lines. I assume if a third line should enter this transportation field and thereby further divide the business, that it would be urged that the still less heavily laden crafts should be permitted to raise their rates still more because of the unnecessary additional investment. The situation here presented gives us both the evils of monopoly and the evils of competition with none of the advantages of either. A single set of facilities in a natural monopoly field tends to reduce to the minimum the amount of the investment upon which an earning shall be allowed, and, likewise, tends to work to capacity the facilities devoted to the business. Unregulated, however, the agency in control of such a single set of facilities tends to take all it can get from its patrons. On the other hand, duplication of facilities, when actual competition exists, tends to induce those in control of such facilities to take the minimum which it is necessary for them to secure and still carry on the business. In the case before us, however, we have the admitted duplication entailing the use of surplus facilities and the working of these boats at much less than maximum capacity and still we are asked to raise these rates and impose upon the public the burden which is necessary to pay an earning upon the entire property. The public can not be expected to accept the evils both of competition and monopoly and even though it appeared here that, by reason of the working of these boats at a less than maximum efficiency, an adequate earning were not produced, it would not be necessary for public authority, under well established principles, to permit an increase, because it is the rule that the public may not be required to give a return upon facilities that are not necessary in the service of such public. As I have already said, however, the evidence does not lead me to conclude that, even on the basis of the property here involved and the expenses shown, an increase should be permitted. Furthermore, large replacements and betterments are shown as operating expenses, and, under all the circumstances, I do not believe these boat lines have at all sustained the burden of satisfying this Commission that an increase is justified.

The testimony of the witness for the Farmers' Transporation Com-

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pany was that its intention was merely to standardize its practices for the convenience of itself and its patrons, and that it was not the intention materially to affect its revenues by the proposed changes. The witness, however, testified that its gross revenues would be increased approximately 5 per cent if the changes proposed were permitted to go into effect, and, in view of the fact that this company does not contend that its present revenues are inadequate, there is no other alternative for the Commission but to decline to grant this application in its present form.

In view of the statements of the representative of the Southern Pacific Company and the California Transportation Company that those lines if permitted to cancel the commodity rates now applying on 5,000-pound and 10,000-pound lots between San Francisco and Sacramento only, would arrange to establish commodity rates that would be satisfactory for shippers whose rates would otherwise be increased, it is my opinion that these companies should be permitted to cancel the commodity rates applying on 5,000-pound and 10,000-pound lots between San Francisco and Sacramento and thereby remove the violations of the long and short haul provision of the constitution.

The Southern Pacific Company in justification of the increases proposed in its Application No. 853, in certain class rates between San Francisco, Crockett, Port Costa, Benicia, Mail Dock, South Vallejo and North Vallejo, and intermediate points, testified that it desired to increase these rates to the rates proposed between those points via its rail line, and in support of the allegation that the present rates were unremunerative submitted a statement showing the operating revenues and expenses of its river steamers. This statement purports to show that the total operating revenue of the Southern Pacific Company's river steamers for the calendar year 1913 was $425,028.18, and the total operating expenses and taxes amounted to $525.936.06, leaving a deficit of $100,907.88. It is impossible to determine from this statement what particular routes of the Southern Pacific Company's river lines are operated at a loss, or what particular class of traffic is carried at unreasonably low rates, although it is true that the increase in rates asked for to Vallejo, Crockett, and adjacent points is comparatively insignificant and on proper showing may be allowed.

The service of the steamer lines on the Sacramento River and its tributaries handling fruit, vegetables and produce between San Francisco and Sacramento, is largely a special service, and the showing of the intervenor asking for a reduction in the rate on fruit and vegetables has not been sustained. The intervenor alleges that the rates for the transportation of fruit and vegetables on the Sacramento River should be no higher than rail rates, and bases its contention for a reduction wholly on a comparison with rail rates. This important question can not be decided on evidence of this kind. In many cases river rates

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might be lower than rail rates and in other cases just the reverse. A great deal would depend upon the volume of business transported by steamer, the number of steamers engaged in the service, and the nature of the service performed. Again, it must be borne in mind that the carriers are at the present time before the Commission in an endeavor to raise a number of the rail rates used by the intervenor in comparison with the water rates.

While the showing of the Southern Pacific Company that the operation of its river steamers results in the loss of over $100,000.00 per annum, and this showing is not satisfactory because of the absence of detail, it is likewise true that the showing of the intervenor in this case does not justify a disturbance of the present rate adjustment.

A careful consideration of all of the evidence introduced at the hearing of these applications leads me to believe that the applications of the carriers to eliminate commodity rates covering shipments of 5,000 and 10,000 pounds between San Francisco and Sacramento should be granted with the understanding that the carriers publish specifically carload commodity rates intermediate in application.

The application of the Farmers' Transportation Company, in its present form, should be denied without prejudice, and subsequent application entertained which will not bring about an increase in revenue.

The application of the Southern Pacific Company for permission to make slight increases in class rates to Vallejo, Benicia, and adjacent points should not be granted on the record in these proceedings, but with additional information may be handled informally.

The application to increase rates to Stockton must be denied, because exhibits plainly show an erroneous method of appointment of expenses.

The applications, so far as they relate to an increase in present rates for the transportation of fruit and vegetables, should be denied.

I submit the following order:

ORDER.

California Navigation and Improvement Company, California Transportation Company, Farmers' Transportation Company, Southern Pacific Company, Sacramento Transportation Company, having applied to this Commission for permission to increase certain rates for the transportation of freight between San Francisco, Stockton, Sacramento, and river landings, and intermediate river landings, and a regular hearing having been had, and the Commission being fully apprised in the premises, and basing its order on the opinion which precedes this order,

It is hereby ordered that the carriers be and are hereby authorized to amend and modify tariffs for the transportation of freight between

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San Francisco, Stockton, Sacramento, and intermediate points in accordance with the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of September, 1914.

Decision No. 1779.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO INCREASE CERTAIN CLASS AND COMMODITY RATES APPLYING BETWEEN VARIOUS POINTS WITHIN THE STATE OF CALIFORNIA.

Application No. 855.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILWAY COMPANY FOR AUTHORITY TO INCREASE CERTAIN CLASS AND COMMODITY RATES APPLYING BETWEEN VARIOUS POINTS WITHIN THE STATE OF CALIFORNIA.

Application No. 858.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR AUTHORITY TO INCREASE CERTAIN CLASS AND COMMODITY RATES APPLYING BETWEEN VARIOUS POINTS WITHIN THE STATE OF CALIFORNIA.

Application No. 859.

JACKSON MERCHANTS' ASSOCIATION, INTERVENOR.

Decided September 4, 1914.

Applicants contending that present rates are insufficient, petition for permission to increase a considerable number of class and commodity rates in what is known as the San Francisco Bay District, submitting in connection therewith a number of comparison sheets showing rates for similar distances in various parts of the country.

Held, That applicants have not made a showing sufficient to warrant the general increases applied for with the exception of the class rates between San Francisco and Stockton. Schedule of class rates being an increase over present rates, established between these points to become effective within twenty days.

Held, In view of the great number of inconsistencies in the proposed rates between bay points and Sacramento Valley points, and the Commission having all of these rates under consideration at the present time, no adjustments made effecting such rates in the present proceedings. Applications in all other respects dismissed without prejudice to its renewal as regards the proposed increases in commodity rates, provided applicants can submit additional evidence in justification of such proposed increases.

George D. Squires, for Southern Pacific Company.

Allan P. Matthew, for Western Pacific Railway Company.

E. W. Camp and *P. O. Hastings*, for the Atchison, Topeka and Santa Fe Railway Company.

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William R. Wheeler and *Seth Mann*, for San Francisco Chamber of Commerce.

F. T. Westfall, for Lumber and Steel Companies.

C. Clifford and *A. A. Dennison*, for Oakland Chamber of Commerce.

D. T. Jenkins, for San Jose Chamber of Commerce.

Geo. W. Ashley, for San Joaquin County Protective League, San Joaquin County Table Grape Growers' Association, and Ashley & Brown.

S. E. Semple, for Stockton Chamber of Commerce.

Ben Blow, for Napa Chamber of Commerce.

F. Allyn Orr, for Amador County Mine Owners.

George J. Bradley, for Sacramento Traffic Association.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

These applications are for authority primarily to make certain increases in the class rates between San Francisco and Stockton and secondarily to make an extensive readjustment in the class rates between points in so-called San Francisco Bay territory, also for authority to make certain changes in numerous commodity rates in that territory. The applications are quite voluminous and it is not practicable fully to define or set out in this opinion the changes proposed. It will suffice if a few illustrations are given.

The Southern Pacific Company proposes to increase the present class rate scale between San Francisco and Stockton, as follows:

PRESENT SCALE.

1	2	3	4	5	A	B	C	D	E
10	10	9	9	7	7	6	5¾	5½	5¼

PROPOSED SCALE.

1	2	3	4	5	A	B	C	D	E
18	16	14	12	11	11	9	8¾	8	6

It also proposes to increase the class rates between San Francisco, Oakland, Alameda, Elmhurst and intermediate points, as follows:

PRESENT SCALE.

1	2	3	4	5	A	B	C	D	E
5	5	5	5	4	4	4	4	3½	3½

PROPOSED SCALE.

1	2	3	4	5	A	B	C	D	E
7	6	6	5	5	5	3½	3½	3½	3½

As will be noted this change effects an increase in the last scale only in first, second, third and fifth classes and class "A" and brings about no change in fourth class, and reductions are proposed in classes B, C, D and E.

It also proposes to increase the class rates between San Francisco and Napa, as follows:

PRESENT SCALE.

1	2	3	4	5	A	B	C	D	E
13	9	8	7	6	6	6	6	5½	5½

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PROPOSED SCALE.

1	2	3	4	5	A	B	C	D	E
15	13	12	10	9	9	8	7½	7	7

and to make similar increases to other points on the Napa Branch.

This applicant also proposes to establish class rates between San Francisco, Oakland and San Jose and points intermediate to Stockton on the basis prescribed by the Commission in the San Joaquin Valley case, which will have the effect of bringing about both increases and reductions.

This applicant also proposes to increase the class rates between Benicia, Crockett, Port Costa, and San Jose, as follows:

PRESENT SCALE.

1	2	3	4	5	A	B	C	D	E
10	10	9	9	7	7	6	5¾	5½	5¼

PROPOSED SCALE.

1	2	3	4	5	A	B	C	D	E
18	16	14	12	11	11	9	8	7	6

Increases in rates from points north of San Jose to points south of San Jose would be brought about by the increases in the rates to San Jose.

Increases are also proposed by this applicant in the class rates between points west of Stockton and points north thereof on the main line to but not including Sacramento and points on the Valley Springs and Ione branches.

Substantially the same changes are proposed by the Atchison, Topeka and Santa Fe Railway Company and the Western Pacific Railway Company, though naturally not as extensive as the changes proposed by the Southern Pacific Company, for the reason that those companies have fewer lines in this territory.

These applicants also propose to cancel many commodity rates on which there has been no movement and those applying on less than carload quantities, and in certain cases to increase the present commodity rates and in other cases to advance the minimum carload rates applying in connection with certain commodity rates.

The Jackson Merchants' Association of Jackson, Amador County, asked leave and was granted permission to file a petition in intervention praying that the application of the Southern Pacific Company be denied, and that such other and further relief be granted as the Commission might find proper.

In justification of the changes proposed the applicants generally allege that the present rates are unremunerative and yield insufficient revenue to pay the bare cost of operation and that the class rates proposed are, in the great majority of cases, less than the class rates found reasonable by this Commission for similar distances in the San Joaquin Valley case.

In support of its application the Southern Pacific Company introduced an exhibit to show that the cost of loading, switching, transfer-

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ring, ferrying, and car detention incident to the movement of less carload shipments between certain points in the bay territory—which items of expense constitute, so it alleges, but 10 per cent of the entire operating expense—is so great as to leave an insufficient margin to take care of other operating expenses. It was shown by this exhibit that on seventy-five cars loaded with less carload freight moving from Oakland Transfer to Livermore, Pleasanton, Martinez, Bay Point, Concord, Hayward, Stege, Hookston, Tracy, and Port Costa, that there was an average gross revenue of $10.93 per car and an average cost per car of $6.24 for loading, switching, transferring and car detention, and a net revenue of but $4.69 per car—after deducting these located costs—to take care of 90 per cent of the operating expense incident to the transportation of this traffic. The petitioner contends that the instances cited are fairly typical and present the general condition and that the showing demonstrates that the present revenue is inadequate.

In justification of its application the Western Pacific Railway Company submitted similar exhibits to show the inadequacy of the earnings on less carload freight. This exhibit covers eighteen cars moving from its Eighth and Brannan street depot in San Francisco to Stockton on the first three days of the months of July, August, September, October, November, and December, containing a total of 136.5 tons of less carload freight. The gross earnings on this freight were $278.92, or an average earning per car of $15.51, the average loading of which was 7.6 tons and the haul approximately ninety-four miles. The average rate per ton mile was .022 cents and the average rate per ton $2.04. A similar showing was made by taking all carloads of less carload freight forwarded from San Francisco to Stockton during the months of January and February, 1914. In this instance the average revenue per car was shown to be $11.90 during the month of January and $12.38 during the month of February, and the average loading per car approximately six tons during each month. The average rate per ton per mile was .02 in January and .021 in February. This applicant also introduced an exhibit showing the rates charged for distances throughout the United States similar to the distance between San Francisco and Stockton and in every case the San Francisco–Stockton rates were shown to be considerably less than the rates for similar distances elsewhere and the witness for this applicant testified in this regard that he had made an examination of many tariffs and had been unable to find anywhere in the United States rates for the transportation of freight on steam railroads as low for a distance of ninety-four miles as obtained between San Francisco and Stockton.

The Atchison, Topeka and Santa Fe Railway Company in support of its application introduced exhibits showing information similar to that submitted by the other applicants. Its Exhibit No. 1 shows that

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the increase in the class rates proposed would not bring about material increases in the revenues accruing to its line from less carload traffic. It was shown that on the less carload shipments forwarded from San Francisco to Stockton, Oakland and points between, on January 27th and January 30th, contained in seventeen cars, the increase in revenue would approximate less than 55 cents per car and that similar increases would result in the revenue from less carload traffic between other points if rates proposed were authorized.

To support this petitioner's contention that the present less than carload rates are unremunerative, it also introduced an exhibit showing that on sixty-one cars of less than carload freight forwarded from San Francisco to Stockton and intermediate points during the period from January 2 to January 10, 1914, the gross revenue per car averaged but $6.76; the handling cost per car averaged $3.16 and after deducting 5 cents per ton for state toll the net revenue per car averaged but $3.38. The handling cost covered nothing but the stevedoring and warehousing expense. For the handling cost an average of 71 cents per ton was arrived at by taking the average cost per ton for loading less carload freight at San Francisco for six months and the average cost for loading and unloading less carload freight at Oakland, Richmond, Stockton, and Antioch for the same period. It was likewise shown by this exhibit that on twenty-six cars of less carload freight forwarded from Oakland to San Francisco, Richmond, Stockton and intermediate points, during the period from January 2 to January 10, 1914, that the gross revenue per car averaged $3.60 per car; that the handling cost averaged $2.12 per car and that the revenue after deducting handling cost averaged but $1.48 per car. A similar showing was made in connection with less carload shipments from Stockton; that during the period of January 2d to January 10th, inclusive, on twenty cars of less carload freight forwarded to Oakland, San Francisco and points between, the gross revenue averaged but $4.32 per car; that the handling cost averaged $2.12 per car and the net revenue averaged $2.20 per car. Similar results were shown in connection with the handling of carload freight from Richmond and Antioch. For instance, it was shown that on twenty cars of less carload freight forwarded from Antioch to San Francisco, Oakland, Stockton and points between, during the period from January 2 to January 10, 1914, inclusive, that the average gross revenue per car was approximately the same as the average handling cost per car. The contention of the carrier is that the handling cost represents but a small proportion of the total operating cost, and if the revenue is hardly adequate to pay for the cost of handling, it is obviously inadequate to take care of the entire operating cost.

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The fact that the rates which the applicant seeks to have established are lower than the rates found reasonable by the Commission in the San Joaquin Valley case, for similar distances, is not conclusive. The comparative conditions surrounding the operations of the carrier in the respective territories, and other such matters, would have to be fully presented to the Commission before it could conclude that an increase to the San Joaquin Valley scale for similar distances was or was not justified. This was not done. However, the comparison of the proposed rates with the rates fixed in the San Joaquin Valley case and charged elsewhere in the United States for similar distances should be given some weight.

The showing made by the petitioners as to the cost of performing loading and switching service, while not absolutely demonstrating that the present revenue is inadequate fully to compensate for the service, is sufficient, in my opinion, to support the conclusion that the class rates between Stockton and San Francisco are unremunerative. I am of the opinion that the application of the petitioners should be granted in part; and that the petitioners should be authorized to increase the class rates between San Francisco and Stockton, as proposed, but that no increases should be made in the rates to points north of Stockton—other than such increases as are brought about by the extension of the 18 cents scale into that territory so as to avoid establishing at Stockton rates violative of the long and short haul provision of the constitution and the Public Utilities Act.

As to the numerous adjustments proposed between points west of Stockton, the Commission is not in a position to pass on the merits of the rates proposed by the applicants. Numerous inconsistencies appear in the rates proposed, which the following examples plainly illustrate:

Between—	and—	1	2	3	4	5	A	B	C	D	E
San Francisco	Stockton	18	16	14	12	11	11	9	8¾	8	6
Crockett	Stockton	18	16	14	12	11	11	8	7	6	5
Benicia	Stockton	18	16	14	12	11	11	9	8¾	8	7¼
South Vallejo	Stockton	18	16	14	12	11	11	9	8¾	8½	8¼
Niles	Stockton	18	16	14	12	11	11	9	8	7	6
Bay Point	Stockton	18	16	14	12	11	11	8	6	5	5

Some inconsistencies will be found in many other proposed rates. The Commission now has before it the matter of readjusting the entire scheme of class rates from San Francisco into the Sacramento Valley, and because of the contentions of various jobbing centers it is apparent that the Commission must proceed with an investigation into the adjustment of rates not only from San Francisco but between all intermediate points in order that whatever adjustment is made should clarify the entire situation.

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Therefore, for the present, I am not inclined to attempt to pass on the merits of the applications other than to permit the class rates between San Francisco and Stockton to be increased in the manner heretofore mentioned in this opinion. Such minor adjustments as are necessary to bring the rates within the requirements of the long and short haul clause of the constitution or the prohibition against rates exceeding combination of locals may be made after an informal conference with the rate department.

The applicants have submitted no satisfactory evidence in justification of the proposed increase in numerous commodity rates. The simple statement by witnesses for the applicants that they considered the rates too low does not justify the increases proposed as contemplated by the Public Utilities Act. Many of the commodity rates may be either too high or too low but certainly the record does not disclose evidence sufficient to determine the fact.

The Commission will consider applications for an adjustment of commodity rates when filed in such a manner as will enable it to determine the reasonableness of each specific commodity rate. As to those rates covering commodities which have not moved, the same may be canceled in the usual way by filing an affidavit that there has been no movement for a period of one year and securing the Commission's informal authority to cancel the same.

I submit the following order:

ORDER.

Southern Pacific Company, Western Pacific Railway Company, and the Atchison, Topeka and Santa Fe Railway Company having applied to this Commission for permission to increase certain class and commodity rates and a regular hearing having been held and the Commission being fully apprised in the premises,

It is hereby ordered that the Southern Pacific Company, Western Pacific Railway Company, and the Atchison, Topeka and Santa Fe Railway Company be and are hereby authorized to publish and file in tariff to become effective within twenty (20) days from date of this order the following class rates between San Francisco and Stockton:

1	2	3	4	5	A	B	C	D	E
18	16	14	12	11	11	9	8½	8	6

and to advance such rates to points beyond the city of Stockton in order to bring the rates herein authorized to Stockton within the provisions of the long and short haul clause of the constitution,

It is further ordered, as to proposed advances in rates contained in the Applications Nos. 855, 858, and 859, the same be and are hereby denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of September, 1914.

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DECISION No. 1780.

IN THE MATTER OF THE ESTABLISHMENT OF DIVISIONS OF JOINT RATES ESTABLISHED BY THE COMMISSION IN ITS DECISION IN APPLICATION NO. 301, CASES NOS. 359, 379, 380, SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (COAST LINES) AND SIERRA RAILWAY COMPANY OF CALIFORNIA.

Application No. 301. Cases Nos. 359, 379, 380.

Decided September 4, 1914.

Joint rates having been established and ordered into effect between the lines of the Southern Pacific Company and the Santa Fe Railway Company on the one hand and the Sierra Railway Company on the other, and parties interested being unable to agree upon a division of such joint rates, application is made to the Commission to establish equitable divisions accruing to each carrier.

Held, That the contention of carriers that they are entitled to full local rates on joint traffic can not be considered, especially in view of the fact that on local traffic two distinct terminal services are necessary, two of such terminal services being eliminated on joint traffic; that carriers can not claim compensation for services not performed. Just and equitable divisions of joint rates established.

R. G. Toll and *J. K. Butler*, for Southern Pacific Company.

E. W. Camp and *G. H. Baker*, for the Atchison, Topeka and Santa Fe Railway Company.

Morrison, Dunne & Brobeck and *S. D. Wood*, for Sierra Railway Company of California.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner*.

This is a proceeding under section 33 of the Public Utilities Act to establish divisions of joint rates heretofore established by the Commission for the movement of traffic between points on the lines of the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company, on one hand, and the Sierra Railway Company of California on the other. The carriers involved in the original proceedings have been unable to agree on divisions of joint rates established by the Commission and have applied to the Commission to fix divisions for them.

The contention of all the carriers is that they are entitled to their full local rates on the joint traffic in question. With such contentions I can not agree. Each local rate contemplates separate and distinct terminal services and when by a joint arrangement two of such terminal services are practically eliminated it stands to reason that carriers are not entitled to be paid for services which are not performed, particularly when it has been urged before this Commission in almost every rate

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proceeding that the terminal services in handling less than carload freight are very heavy.

In the case of through traffic all that is necessary in the way of terminal yard facilities is an interchange track, the cost of which, as a rule, is insignificant compared to the value of the lands used for team and industrial tracks necessary to handle purely local freight.

In the case of local freight from San Francisco to Oakdale, and, again, from Oakdale to a point on the Sierra Railway Company, the consignee at Oakdale has two days to unload a car and the shipper from Oakdale would have two days to load a car, all of which must be considered in the local rates. On joint traffic, however, this item of car detention is not present, which certainly reduces the cost of joint traffic over two local movements. The principle is well established that joint rates should be less than a full combination of locals, and further comment in this connection is unnecessary.

The showing of the earnings of the Sierra Railway Company under the various divisions of joint rates illustrated by that road is not conclusive. The various tabulations submitted by the Sierra Railway Company are, to my mind, not illustrative of the true condition, particularly with reference to the lumber movement. While I have no doubt the amount of lumber handled by the Sierra Railway Company during the month of April is as stated by that company, it is apparent to me that the movement in this particular month is not typical of the movement for the entire year.

The lumber traffic of the Sierra Railway Company has shown a steady increase for several years and while trade conditions generally may not be as good at the present time as they have been in the past there is no reason for assuming that the lumber traffic of the Sierra Railway Company will show any radical decrease.

From all the evidence introduced in this case I am of the opinion that the divisions of the class rates on joint traffic between points on the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company (Coast Lines), on one hand, and the Sierra Railway Company of California on the other, should be as follows:

Between San Francisco, Oakland, San Jose, Benicia, Antioch, Bethany and other points shown in group 1, pages 6 to 15, inclusive, Pacific Freight Tariff Bureau Tariff, C.R.C. No. 74; also Sacramento and points on Sierra Railway, the divisions accruing to Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company (Coast Lines) on class rates—

1	2	3	4	5	A	B	C	D	E
17	15	13	11	10	10	8	8	7	7

The balance of such joint rates to accrue to the Sierra Railway Company.

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Between Stockton and points on the Sierra Railway Company the divisions of class rates accruing to Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway (Coast Lines) are:

1	2	3	4	5	A	B	C	D	E
11	10	9	8	7	7	5	5	4	4

The balance of such joint rates to accrue to the Sierra Railway Company.

I recommend the following order:

ORDER.

Application having been made to the Commission under section 33 of the Public Utilities Act for the establishment of divisions of joint freight rates heretofore established by the Commission in Application No. 301, Cases Nos. 359, 379 and 380, for the movement of joint traffic between points on the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company (Coast Lines), on the one hand, and the Sierra Railway Company of California on the other, and a regular hearing having been held and the Commission being fully apprised in the premises,

It is hereby ordered that the joint rates heretofore established by the Commission in the above numbered application and cases be divided as follows:

On joint traffic between San Francisco, Oakland, San Jose, Benicia, Antioch, Bethany and other points in group 1, pages 6 to 15, inclusive, Pacific Freight Tariff Bureau Tariff, C.R.C. No. 74; also Sacramento on one hand, and points on the Sierra Railway Company of California on the other, divisions of class rates shall be as follows to Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company (Coast Lines):

1	2	3	4	5	A	B	C	D	E
17	15	13	11	10	10	8	8	7	7

Balance of such joint rate to Sierra Railway.

On joint traffic moving under class rates between Stockton and points on the Sierra Railway of California the divisions shall be to Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company (Coast Lines):

1	2	3	4	5	A	B	C	D	E
11	10	9	8	7	7	5	5	4	4

Balance to Sierra Railway.

In no case shall the division of the joint rate be in excess of the local rate of either line.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of September, 1914.

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DECISION No. 1781.

IN THE MATTER OF THE APPLICATION OF ANNA A. FREITAS TO SELL AND WILLIAM GRANT TO PURCHASE A CERTAIN DITCH AND WATER PROPERTY IN TUOLUMNE COUNTY, CALIFORNIA, KNOWN AS THE GALE DITCH AND WATER RIGHTS.

Application No. 1310.

Decided September 8, 1914.

Anna A. Freitas authorized to transfer to William Grant for the sum of $10,500.00 a certain ditch used in the transfer of water between certain points in Tuolumne County, granted.

REPORT OF THE COMMISSION.

Anna A. Freitas having filed the present application stating that she is the owner of certain property in Tuolumne County, California, known as the Gale or Freitas ditch, and certain water rights conducting waters from Mormon Creek and conveying them to Jackass Hill and Tuttletown in said county of Tuolumne, and that applicant desires to dispose of this property to William Grant for the sum of $10,500.00 in accordance with the deed and mortgage attached to the application in this proceeding and marked, respectively, Exhibits "A" and "B," and William Grant having joined in this application; and it appearing that the applicants believe that the property to be transferred is not public utility property, but filed the present application merely as a precaution against possible attacks upon the transfer, and the Commission expressly refraining from passing upon the status of the property to be transferred, but being of the opinion that the application should be granted,

It is hereby ordered that Anna A. Freitas be and she is hereby authorized to transfer to William Grant, in accordance with the provisions of a deed attached to the application in this proceeding and marked "Exhibit A," a certain ditch and water property in Tuolumne County specified in said deed; and

It is further ordered that William Grant be and he is hereby authorized to mortgage said property to Anna A. Freitas, in accordance with the provisions of the mortgage attached to the application in this proceeding and marked "Exhibit B," upon the following condition, and not otherwise, to wit: The consideration given for the property herein authorized to be transferred shall at no time be taken before this Commission, or any other public authority, as representing for rate fixing purposes the value of the property transferred.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of September, 1914.

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DECISION No. 1782.

TUOLUMNE TRANSMISSION COMPANY
vs.
SIERRA AND SAN FRANCISCO POWER COMPANY.

Case No. 644.

Decided September 8, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant having, on September 3, 1914, advised this Commission that the subject-matter of its complaint had been satisfactorily adjusted and requested that the complaint herein be dismissed,

It is hereby ordered that the above entitled case be and the same is hereby dismissed.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of September, 1914.

DECISION No. 1783.

IN THE MATTER OF THE APPLICATION OF MIRADERO WATER COMPANY FOR AUTHORITY TO SELL CERTAIN PROPERTY TO THE CITY OF GLENDALE.

Application No. 1319.

Decided September 8, 1914.

Miradero Water Company authorized to transfer its certain water system to the city of Glendale for the sum of $24,919.00, a valuation previously fixed by the Commission.

REPORT OF THE COMMISSION.

This Commission having, in its order made on May 18, 1914, in Application No. 936, being the application of the City of Glendale that the Railroad Commission fix the value of certain water systems to be transferred to said city, found as a fact that $24,919.00 represents the fair compensation to be paid by the city of Glendale for certain property of Miradero Water Company specified in detail in said order, and Miradero Water Company having filed the present application asking for the authority of this Commission to sell its certain water system to the city of Glendale, and the Commission being of the opinion that this matter does not require a hearing and that the application should be granted,

It is hereby ordered that Miradero Water Company be and it is hereby authorized to transfer to the city of Glendale all of the real prop-

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erty, storage system, distribution system, and other property described in detail in finding No. 3, in the order of this Commission made on May 18, 1914, in Application No. 936.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of September, 1914.

DECISION No. 1784.

IN THE MATTER OF THE APPLICATION OF TITLE GUARANTEE AND TRUST COMPANY FOR AUTHORITY TO SELL CERTAIN PROPERTY TO THE CITY OF GLENDALE.

Application No. 1320.

Decided September 8, 1914.

Title Guarantee and Trust Company authorized to sell its certain water system in the city of Glendale to said city for the sum of $69,782.66, a valuation previously fixed by the Commission.

REPORT OF THE COMMISSION.

This Commission, in its order made on May 18, 1914, in Application No. 936, being the application of the city of Glendale that the Railroad Commission fix the value of certain water systems to be transferred to said city, found as a fact that $69,782.66 represents the fair compensation to be paid by the city of Glendale for certain property of Title Guarantee and Trust Company specified in detail in said order, and Title Guarantee and Trust Company having filed the present application asking for the authority of this Commission to sell its certain water system to the city of Glendale, and the Commission being of the opinion that this matter does not require a hearing and that the application should be granted,

It is hereby ordered that Title Guarantee and Trust Company be and it is hereby authorized to transfer to the city of Glendale all of the real property, storage system, distribution system, and other property described in detail in Finding No. 1, in the order of this Commission made on May 18, 1914, in Application No. 936.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of September, 1914.

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DECISION No. 1785.

BARCLAY McCOWAN ET AL.
vs.
THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 615.

Decided September 8, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainants in the above entitled case having, on September 2, 1914, made written request to this Commission that the above entitled case be dismissed,

It is hereby ordered that the above entitled case be and the same is hereby dismissed.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of September, 1914.

DECISION No. 1786.

IN THE MATTER OF THE APPLICATION OF DE FREMERY WHARF AND LAND COMPANY FOR AUTHORITY TO ISSUE A NOTE AND TO MORTGAGE ITS PROPERTY.

Application No. 1305.

Decided September 8, 1914.

Application of de Fremery Wharf and Land Company, a company owning among other property, a wharf used for public purposes, for permission to execute its note in the sum of $110,000.00, 3½ per cent of the proceeds of which are to be used for improvements to its wharf properties, and to secure same by a mortgage covering all of its property, granted.

Nathan Moren, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

The de Fremery Wharf and Land Company owns twenty-four acres of land in Clinton Basin, East Oakland. It is engaged in the business of improving and leasing this property chiefly for industrial purposes. It also operates a wharf business for the convenience of its tenants and also for the public generally.

The de Fremery Wharf and Land Company has an authorized issue of nine thousand shares of stock of the par value of one hundred dollars per share. It has issued eight thousand shares, of which seven thousand nine hundred shares are owned by the de Fremery estate, seventy-five

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shares by James de Fremery, Jr., and twenty-five shares by Charles N. Cadman.

The applicant states that the value of its property is approximately $1,030,926.26 and that the wharf improvements were appraised at $35,000.00, representing less than 3½ per cent of the total.

Applicant states further that on or about January 15, 1910, it issued bonds in the sum of $200,000.00 secured by trust deed upon its real property.

Application is now made for authority to execute a note to E. D. Connolley in the sum of $110,000.00 for a period not to exceed three years, with interest at 6 per cent per annum. Application is further made for authority to mortgage the properties of de Fremery Wharf and Land Company, including the wharf properties, as security for the payment of said note.

It appears that within the past four years a sum approximating fifteen thousand (15,000) dollars was spent for the maintenance and improvement of the wharf properties and that the sum of eighteen thousand five hundred (18,500) dollars was expended for new facilities and additions and betterments thereto. A certain indebtedness was incurred through these transactions for the benefit of the wharf business.

Applicant now proposes to expend from the proceeds of the loan, in the sum of one hundred ten thousand (110,000) dollars, in excess of 3½ per cent for the benefit of the wharf properties.

Applicant has not separated its wharf business from the real estate and industrial features of the enterprise. Therefore, while it operates a public wharf and is to that extent a public utility, it devotes less than 3½ per cent of its property to the public utility business.

It is not possible at this time in the consideration of this case to separate the public utility business from the balance of applicant's affairs, and this Commission will therefore pass generally upon the matters presented.

It is the testimony that applicant will be enabled to improve its wharf service through the negotiation of the loan herein proposed.

I recommend that the application be granted and submit the following form of order:

ORDER.

The de Fremery Wharf and Land Company having applied to this Commission for authority to execute a note in the sum of one hundred ten thousand (110,000) dollars, payable to E. D. Connolley, maturing on or before three (3) years after date with interest at 6 per cent per annum, and de Fremery Wharf and Land Company having applied to this Commission further for authority to mortgage its property as security for said note, and a hearing having been held, and it appearing that the purposes for which applicant proposes to use said moneys as

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far as they are to be used for applicant's public utility properties are proper purposes under the Public Utilities Act,

It is hereby ordered that de Fremery Wharf and Land Company be given authority and it is hereby given authority to issue a promissory note to E. D. Connolley in the sum of one hundred and ten thousand (110,000) dollars, payable on or before three (3) years after date, with interest at 6 per cent, said note to be substantially in the form of applicant's Exhibit "A," filed in connection with the application herein;

And it is further ordered that de Fremery Wharf and Land Company be given authority and it is hereby given authority to mortgage its property as security for said note; said mortgage to be substantially in the form of applicant's Exhibit "B" filed in connection with the application herein.

The authority herein given is given upon the following conditions and not otherwise:

1. Applicant shall devote a sum which shall not be less than 3½ per cent of the face value of said note for the benefit of its wharf properties.

2. Applicant shall report on or before the twenty-fifth day of each month the moneys used for the benefit of its wharf properties and in detail the purposes for which said moneys were devoted.

The authority herein given shall apply to such note as shall have been issued or to such mortgage as shall have been executed on or before June 30, 1915.

The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of September, 1914.

Decisions Nos. 1787 and 1788, grade crossings; not printed. See end of volume.

DECISION No. 1789.

IN THE MATTER OF THE APPLICATION OF WEST COAST GAS COMPANY FOR AN ORDER AUTHORIZING THE ESTABLISHMENT OF A MINIMUM RATE FOR GAS.

Application No. 1220.

Decided September 10, 1914.

Applicant, operating a gas generating and distributing system in certain portions of Los Angeles County, finds itself in the position of charging a dollar minimum over a certain portion of its system, a fifty-cent minimum over another, and no minimum at all over the balance, and therefore applies for permission to establish the dollar minimum per month over the entire system.

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Held, That though a number of applicant consumers reside in cottages occupied only during a small portion of the year, gas service is continually maintained and therefore it is only fair that a minimum should be collected. Application granted, provided that consumers not desiring service over a number of months need not pay the minimum by having their meters disconnected. A charge of $1.00 for reconnecting such meters established.

Robert E. L. Hackett, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to establish a minimum rate of $1.00 per month for gas supplied in the entire territory served by applicant.

West Coast Gas Company supplies gas to the cities of Newport Beach and Huntington Beach and to unincorporated territory known as Downey, Bellflower, Norwalk and Artesia, all in Los Angeles County. Newport Beach and Huntington Beach have heretofore voted to confer upon the Railroad Commission their jurisdiction over public utilities, so that the Railroad Commission now has jurisdiction over the rates for gas supplied in the entire territory served by applicant.

Applicant urges that when it filed its rates with this Commission it included a minimum rate of $1.00 per month, but there is no record on file with the Commission to substantiate this claim. Hence in unincorporated territory no legal minimum rate is in effect.

When Huntington Beach conferred upon this Commission its powers over public utilities, applicant had in effect there a minimum rate of $1.00 per month, which rate continues in effect until altered. In Newport Beach, however, a minimum rate of 50 cents per month was actually being charged when the city conferred its powers upon this Commission. Applicant's president testified that this rate had been established by the local manager, without his knowledge or consent. Be that as it may, the minimum actually being charged in Newport Beach was 50 cents per month. It thus appears that in part of applicant's territory no legal minimum has existed, while in another part a monthly minimum of 50 cents has been in effect, and in still another part a minimum of $1.00 per month. That a uniform rule should be established for the entire territory served by applicant is obvious.

It appears that in a portion of the territory served by applicant, particularly at Newport Beach, a large proportion of applicant's customers own cottages which are occupied during two or three months in the summer and that during the remaining portion of the year they are occupied only occasionally or not at all. The owners of these cottages object to paying a minimum of $1.00 during the entire twelve months.

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However, applicant's plant must be maintained in readiness to serve during the entire year and applicant's investment is tied up and its system depreciates during the entire twelve months. Hence it seems only fair that as long as applicant's customers remain connected to applicant's system they should pay a reasonable minimum monthly. Applicant must be ready to serve at a moment's notice every customer who is connected to its system, and a proper proportion of its investment and of the depreciation is fairly chargeable to each such customer. The sum of $1.00 per month is a usual minimum charge for gas. I see no reason why it should not apply to applicant, provided that its customers understand that they have the right to have their service disconnected at any time and thus avoid the further payment of any minimum until the premises are again connected. A fee of $1.00 is reasonable for again making the service connection. Hence persons owning cottages in Newport Beach and elsewhere in applicant's territory may have their meters disconnected at the close of the summer season or whenever the seasonal use of the cottages has ended and need pay no further minimum until it is desired again to use the gas. When the service is resumed a fee of $1.00 for service connection must be paid.

I believe that this adjustment will be fair to all parties and recommend that it be made. There has been much confusion among applicant's customers as to what minimum, if any, should be paid. These customers have been entirely willing to pay such minimum as might be fair, but have been uncertain as to whether applicant's demands have been just. In order to settle these doubts and clear the atmosphere, I recommend that applicant be directed to print or mimeograph and send a copy of the opinion and order herein to each customer whose consumption of gas has been such, during any month in the year ending August 31, 1914, as to bring him within the minimum herein established.

I submit herewith the following form of order:

ORDER.

West Coast Gas Company having applied for an order authorizing it to establish a minimum rate of $1.00 per month for gas, within the entire territory supplied by the company, and a public hearing having been held on said application, and the Railroad Commission finding that the application should be granted subject to the conditions hereinafter specified,

It is hereby ordered as follows:

(1) West Coast Gas Company is hereby authorized to establish a minimum rate of $1.00 per month for gas supplied to any and all the company's customers, but only on the following condition: (*a*) Each customer shall have the right to have his service disconnected upon notifying the gas company and shall be under no obligation to pay the minimum rate during the time the service remains disconnected.

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(2) Each new customer, and each existing customer desiring a service reconnection, shall pay the sum of $1.00 for the connection or reconnection of the service, provided that this charge, together with interest thereon at the rate of 6 per cent per annum, shall be refunded by applicant when any consumer has remained a patron continuously for the period of twelve months.

(3) West Coast Gas Company shall mail a printed or mimeographed copy of this opinion and order to each customer who during any month in the year ending August 31, 1914, has had such consumption of gas as to bring him within the minimum rate herein established, and shall thereafter file with the Railroad Commission an affidavit showing compliance with this provision.

(4) This order shall become effective when the affidavit referred to in the preceding paragraph has been filed with the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of September, 1914.

DECISION No. 1790.

W. D. ADAMS

vs.

EASTSIDE CANAL AND IRRIGATION COMPANY.

Case No. 298.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION ON ITS OWN INITIATIVE INTO THE RATES AND PRACTICES OF THE EASTSIDE CANAL AND IRRIGATION COMPANY.

Case No. 309.

Decided September 10, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

It is hereby ordered that the order of this Commission made in these proceedings on August 27, 1914, establishing the rates to be charged for water supplied by Eastside Canal and Irrigation Company be and the same is hereby amended by adding thereto the following:

The rates established in these proceedings shall be payable on or before February 1st, for use during the ensuing season, and in every case in which payment is not made on or before February 14th a penalty of 25 cents per acre shall be added to said rates, and the failure of any consumer to pay the delinquent rate plus the penalty herein prescribed on or before April 14th of the same year shall forfeit the

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right of such consumer to demand water from said company, provided the right of any consumer to demand water shall not be forfeited unless said company shall have given to the owner or consumer or person in possession and control of the land, two notices in writing—the first of such notices to be delivered prior to February 1st, and the second of such notices to be delivered at least thirty days prior to April 14th, each of said notices to contain a statement of the rates fixed by this Commission for the supply of water by said company and the regulation relating to the penalty of 25 cents per acre and the regulation relating to the forfeiture of the right to demand water as prescribed in this order.

This order entirely supersedes Rule 16 of the Rules and Regulations heretofore established by order of this Commission on March 31, 1914, providing that:

> "The failure of any consumer to pay the water rate in advance as herein provided shall exonerate the company from any delivery of water to him during the year of the failure to so pay the rate."

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of September, 1914.

Decision No. 1791, grade crossing; not printed. See end of volume.

DECISION NO. 1792.

IN THE MATTER OF THE APPLICATION OF FOWLER GAS COMPANY FOR AN ORDER AUTHORIZING SAID COMPANY TO ISSUE STOCK AND NOTES.

Application No. 1157.

Decided September 11, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

It is hereby ordered that the order heretofore made in this proceeding on June 11, 1914, be and the same is hereby amended to provide that the bonds therein authorized to be issued shall be issued so as to net applicant not less than 85 per cent of the face value thereof.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of September, 1914.

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DECISION NO. 1793.

GRIFFIN & MILLER, HOLOWELL HARDWARE COMPANY, NATHAN'S ESTATE, ROBERT JACOBS, JOHN R. LYLE, D. WOOD & SON, C. E. EMERSON, SUSANVILLE PHARMACY,

vs.

HONEY LAKE VALLEY MUTUAL TELEPHONE ASSOCIATION.

Case No. 634.

Decided September 11, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainants in the above entitled case having, on September 8, 1914, made written request to this Commission that the above entitled case be dismissed,

It is hereby ordered that the above entitled case be and the same is hereby dismissed.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of September, 1914.

Decision No. 1794, grade crossing; not printed. See end of volume.

DECISION NO. 1795.

IN THE MATTER OF THE APPLICATION OF CROCKER ESTATE COMPANY FOR AN APPRAISEMENT OF ITS WATER SYSTEM IN DALY CITY, SAN MATEO COUNTY, CALIFORNIA, AND FOR PERMISSION TO SELL THE SAME UNDER SECTION 51 (A) OF THE PUBLIC UTILITIES ACT.

Application No. 1203.

Decided September 14, 1914.

Crocker Estate Company authorized to transfer to the city of Daly City its water system in said city for the sum of $22,264.00.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, on July 18, 1914, made an order in this proceeding stating that the parties thereto were, at that time, negotiating with a view to fixing a price at which certain properties of the Crocker Estate Company should be purchased by Daly City, and that in case a price was agreed upon the Commission would make an order authorizing the transfer of the property, and it appearing that the parties have now determined upon a price, and the Commission being

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of the opinion that the transfer of the property hereinafter specified should be authorized at the price agreed upon,

It is hereby ordered that the Crocker Estate Company be, and it is hereby, authorized to transfer to Daly City for the sum of $22,264.00 the following described property:

1. *Real Estate.*

	Front.		Back.	
Lot 3—Block No. 1	26′ 9⅜″	x	105′ 2¼″	x 25′ 7⅛″
Lot 4—Block No. 1	26′ 9⅛″	x	101′ 4½″	x 25′ 7⅛″
Lot 5—Block No. 1	25′ 7¾″	x	102′ 6¾″	x 25′ 7⅛″

Reservoir site, 1 acre.

All in Crocker Estate Tract, Daly City, California.

2. *Wells.*

No. 1—200′ depth—200′ casing (20″) No. 12 casing (86′ of 24″ casing concrete between).

No. 2—187′ depth—187′ casing (12″) No. 12 casing (80′ of 14″ casing concrete between).

Concrete well collars (No. 2 well) 3′ x 3′ x 24″ deep, 6″ walls.

3. All the nipples, ells, tees, valves, check valves, flanges, reducers, unions, bushings, saddles, plugs, caps, meters and services, pipes and fittings, specified in detail in Item No. 3 in the inventory attached to the application in this proceeding and marked "Exhibit A."

4. *Pump House.*

Barn—23′ x 18′ x 10′.

Pipe house—24′ x 10′ x 7′ with racks—on lot No. 3.

860 square feet of tight board fence.

5. *Improvements.*

Sidewalks (concrete), 493 sq. ft. x 6″.

Grass plot—48′ x 25′.

Fence and gates—25′ x 100′.

Concrete floor in building—700 sq. ft. x 6″ deep.

6. *Meter Pit.*

16′ x 8′ x 5′ x 4″ brick lined, concrete floor. Excavation 9″ floor. Walls 6″ concrete. Covered with 2″ redwood planks, 2″ x 12″.

7. *Muffler Pit.*

6′ x 6′ x 6′, concrete lined; 8′ wall and floor excavation.

8. *Fuel Tank Pit.*

Excavation 8′ 5″ x 19′, lined with 9″ reinforced concrete floor, wood cover 2″ x 12″.

Steel drum 14′ x 4′ 6″ x ¼″, heads 5-16″, holding 2,000 gallons fuel. Present time about 700 gallons in tank.

9. *Plant and Machinery.*

1 38″ x 7″ Medart solid crowned pulley.

1 12½″ x 9½″ iron pulley.

1 16″ x 9″ wood pulley.

1 18″ x 8½″ Medart pulley.

1 33″ x 8″ C. I. pulley.

1 Fairbanks-Morse duplex pump 3½″ x 6″.

Foundations 2′ 6″ x 4′ x 4′.

1 Air tank 2′ 6″ dia. x 6′ x 13-16″ iron.

1 Switch panel 3-pole (wooden).

No-voltage release.

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Fuse base.
Starting compensator.
1 28" x 11"all-steel pulley.
44 feet 10" x 5-ply rubber belting.
1 Price working head and pump with tension rods and turnbuckles. Foundations 3' 6" x 5' x 2'.
1 head frame, 3 pieces 6" x 6", 30' long; 2 pieces 2" x 8", 10' long; 2 pieces 4" x 6", 8' long.
40 feet 8" x 6-ply Gandy belting.
1 double throw knife switch.
Wiring and lights.

10. All of the tools and equipment specified in items Nos. 10, 11, 12, 13, 14, and 15 in the inventory attached to the application in this proceeding and marked "Exhibit A."

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of September, 1914.

Decision No. 1796.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE RENEWAL OF CERTAIN PROMISSORY NOTES.

Application No. 1321.

Decided September 15, 1914.

Applicant authorized to issue notes in the aggregate amount of $64,156.48 in renewal of note of a like amount now outstanding and also to subsequently renew such notes if desired, provided that the aggregate time of renewals shall not exceed the period of one year.

Report of the Commission.

Loveland, *Commissioner.*

In this application, the San Joaquin Light and Power Corporation asked for authority to renew certain promissory notes for such period of time as applicant may deem advisable without the further order of this Commission, provided that the aggregate of the terms of such renewals shall not exceed one year from the date of this order, as provided in section 52 (*b*) of the Public Utilities Act.

The notes which applicant desires to renew, the payee, the amount

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thereof, the rate of interest and the date at which said notes which applicant desires to renew will mature are as follows:

John A. Roebling's Sons Company	June 2	$7,500 00	7 per cent	Sept. 2, 1914
United States National Bank, Dinuba	May 22	2,500 00	6 per cent	Sept. 22, 1914
Standard Oil Company	July 29	20,000 00	6 per cent	Sept. 27, 1914
John A. Roebling's Sons Company	July 13	7,500 00	6 per cent	Oct. 13, 1914
Union National Bank, Fresno	Aug. 3	2,500 00	6 per cent	Nov. 1, 1914
Fresno National Bank	Aug. 14	10,000 00	6 per cent	Nov. 12, 1914
Westinghouse Electric and Manufacturing Company	Aug. 14	10,000 00	6 per cent	Nov. 14, 1914
Kelman Electric and Manufacturing Company	Aug. 26	1,500 00	7 per cent	Nov. 26, 1914
Mark-Lally Company	Aug. 28	2,656 48	8 per cent	Nov. 28, 1914

I find from the pleadings and from testimony submitted at former application for renewal of these notes that the proceeds of said notes were used for purposes properly capitalizable.

I recommend that the application be granted and submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to the Railroad Commission for an order authorizing the issue of certain promissory notes in the sums and at the rate of interest above set forth for such periods of time as applicant may desire, providing the aggregate of such renewals shall not exceed one year from the date of this order, and a public hearing having been held and the Railroad Commission finding that the purposes for which the proceeds of said notes were used were not properly or reasonably chargeable to operating expenses or to income,

It is hereby ordered that the San Joaquin Light and Power Corporation be and the same is hereby authorized to issue its promissory notes in the amounts, at the rate of interest and to the payees herein set forth on the following conditions and not otherwise, to wit:

First—San Joaquin Light and Power Corporation shall issue said promissory notes at their full face value and at the rate of interest herein set forth.

Second—San Joaquin Light and Power Corporation shall use the proceeds of said notes only for the purpose of refunding its promissory notes of the date and to the payees herein set forth.

Third—San Joaquin Light and Power Corporation may issue said notes and such renewals thereof as it may deem advisable without further order from the Railroad Commission, provided that the aggregate of the terms of said notes shall not exceed one year from the date of this order.

Fourth—San Joaquin Light and Power Corporation shall report to the Railroad Commission within ten (10) days after date of the renewal of these notes or any of them the fact of such renewal, the terms and disposition of the proceeds of the note or notes renewed under this authorization.

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Fifth—This order shall not become effective until applicant has paid the fee specified in section 57, as amended, of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of September, 1914.

DECISION No. 1797.

IN THE MATTER OF THE APPLICATION OF SNOW MOUNTAIN WATER AND POWER COMPANY AND CALIFORNIA TELEPHONE AND LIGHT COMPANY FOR AN ORDER PERMITTING FORMER TO TRANSFER AND LEASE CERTAIN OF ITS PROPERTIES TO THE LATTER AND AUTHORIZING THE CALIFORNIA TELEPHONE AND LIGHT COMPANY TO EXECUTE ITS PROMISSORY NOTE TO THE SNOW MOUNTAIN WATER AND POWER COMPANY.

Application No. 1304.

Decided September 15, 1914.

Application of the Snow Mountain Water and Power Company to lease a substation site and permission to use certain portions of a right of way owned by said company, and also to sell a certain transmission line to the California Telephone and Light Company, and of the latter company to execute to the former its promissory note in the sum of $790.18, bearing interest at 6 per cent, in payment of the transmission line, granted.

Leo. H. Susman, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application of Snow Mountain Water and Power Company for authority to lease certain property to California Telephone and Light Company under two certain agreements, which will hereinafter be referred to, and of California Telephone and Light Company to execute its promissory note in the sum of $790.18 in payment of certain of these properties, as will hereinafter appear in greater detail.

By agreement dated May 26, 1914, a copy whereof is attached to the petition herein and marked "Exhibit A," Snow Mountain Water and Power Company grants to California Telephone and Light Company the right to use the Snow Mountain Company's right of way for a distance of about one quarter of a mile south of the grantor's substation at Talmage, in Mendocino County, for the purpose of erecting thereon poles and of operating a three-phase, 6600-volt electric transmission line. By the same agreement, the Snow Mountain Company leases to California Telephone and Light Company a small portion of the former company's substation site at Talmage for the purpose of enabling the

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lessee to build thereon a substation. The term of the lease is ten years from June 1, 1914, and the annual rental is $12.00, payable in advance. The purpose of these arrangements is to put California Telephone and Light Company in a position to serve with light and power rural territory in the neighborhood of Talmage.

By agreement dated July 22, 1914, a copy whereof is attached to the petition and marked "Exhibit B," Snow Mountain Company agrees to sell to California Telephone and Light Company and the latter company agrees to purchase from the former for the price of $790.18, the Snow Mountain Company's 2300-volt electric transmission line, extending from the company's hydroelectric plant in the upper end of Potter Valley, in Mendocino County, to its terminus in that portion of the town of Potter Valley which is known as Centerville, together with appurtenances, more particularly described in the petition herein, to which description, as contained in paragraph 6 of the petition, reference is hereby made. Snow Mountain Company also agrees to transfer to California Telephone and Light Company such portion of its franchise in the town of Potter Valley as is necessary for supplying the town and its inhabitants with illuminating light. The purpose of this agreement is to enable the Snow Mountain Company to retire from the business of distributing electric energy in the town of Potter Valley, and to enable California Telephone and Light Company to enter upon this business and to serve additional customers in and about the town of Potter Valley. California Telephone and Light Company hopes to be able next year to build into Potter Valley a transmission line from the Talmage substation, or to erect a small substation in Potter Valley, so as to take care of the existing business and the new business which the company hopes to develop. California Telephone and Light Company intends to continue the existing rates in Potter Valley, which are 10 cents per kilowatt hour for lighting, with a minimum of 50 cents per month. The company hopes, however, to substitute a permanent and uniform service for the present intermittent service and thereafter to apply for authority to increase the minimum rate to correspond with the improved service.

Both parties have agreed that the fair value of the property in and about Potter Valley to be sold by the Snow Mountain Company to California Telephone and Light Company is the sum of $790.18. California Telephone and Light Company asks authority to issue in payment for said property its promissory note, dated July 22, 1914, payable to Snow Mountain Water and Power Company, or order, two years after date, bearing interest at the rate of 6 per cent per annum from date until paid, interest to be payable quarterly.

I find that the public convenience will be served by the proposed arrangement, and recommend that the application be granted.

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I submit herewith the following form of order:

ORDER.

Snow Mountain Water and Power Company having applied to the Railroad Commission for an order authorizing the company to convey to California Telephone and Light Company the right to use the former company's right of way from its station at Talmage, in Mendocino County, a distance of about one quarter of a mile southerly and to lease to California Telephone and Light Company a portion of its substation site at Talmage, all in accordance with agreement dated May 26, 1914, between Snow Mountain Water and Power Company and California Telephone and Light Company, a copy of which agreement is attached to the petition herein and marked "Exhibit A"; and Snow Mountain Water and Power Company having applied to the Railroad Commission for an order authorizing said company to sell to California Telephone and Light Company two miles of No. 6 copper wire, constituting a part of the vendor's 2300-volt electric transmission line extending from the latter's hydroelectric power plant in the upper end of Potter Valley, in Mendocino County, to its terminus in that portion of the town of Potter Valley which is known as Centerville, together with appurtenances, and also that portion of the franchise of the grantor in the town of Potter Valley which is necessary to supply the town and the inhabitants thereof with illuminating light, on the terms and conditions set forth in an agreement dated July 22, 1914, a copy whereof is attached to the petition herein and marked "Exhibit B"; and California Telephone and Light Company having applied for an order authorizing the issue of the company's promissory note in the principal sum of seven hundred and ninety and 18–100 (790.18) dollars, to be dated July 22, 1914, payable to Snow Mountain Water and Power Company two (2) years after date, to bear interest at the rate of six (6) per cent per annum from date until paid, the interest to be payable quarterly; and a public hearing having been held upon said applications, and the Railroad Commission finding that public convenience and necessity will be served by granting said applications, and that the purposes for which said promissory note is to be issued are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that said applications be and the same are hereby granted, provided that with reference to the promissory note to be issued by California Telephone and Light Company, the authority hereby given is subject to the following conditions:

1. California Telephone and Light Company shall report to the Railroad Commission within ten days after the issue of said note the fact of the issue and the terms upon which the note was issued.

2. The authorization hereby given shall not become effective with

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reference to said promissory note until California Telephone and Light Company has paid the fee prescribed by section 57 of the Public Utilities Act, as amended.

3. The authorization hereby given shall apply only to such promissory note as may be issued on or before November 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of September, 1914.

DECISION No. 1798.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO SELL ONE HUNDRED AND EIGHTY-SEVEN THOUSAND DOLLARS PAR VALUE OF ITS BONDS TO THE HARRIS TRUST AND SAVINGS BANK OF CHICAGO, ILLINOIS, SAID BONDS HAVING BEEN HERETOFORE AUTHORIZED BY THIS COMMISSION UNDER APPLICATION NO. 350 AND HYPOTHECATED WITH SAID HARRIS TRUST AND SAVINGS BANK.

Application No. 350.

Decided September 15, 1914.

Applicant, Southern California Edison Company, executor of a promissory note in the sum of $150,000.00, now due, authorized to sell at 87½ to the Harris Trust and Savings Bank of Chicago bonds of the face value of $187,000.00, pledged as security for said note, to pay off said note with the proceeds of these bonds, the balance of said proceeds to be placed in applicant's treasury subject to the further order of the Commission as regards the purposes for which they may be expended.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SUPPLEMENTAL OPINION.

By the original order in Application No. 350, Southern California Edison Company was given authority to issue, sell and deliver $2,500,000.00 face value of bonds, bearing interest at the rate of 5 per cent per annum, due November 1, 1939, said bonds to be sold at 89 per cent of their face value.

Thereafter, to wit, on the 12th day of August, 1914, under the fourth supplemental order in Application No. 350, Southern California Edison Company was given authority to sell 321 bonds of the denomination of $1,000.00 each, said 321 bonds then remaining unsold under the original order above referred to, at 87½ per cent of the face value instead of 89 per cent of face value as specified in the original order.

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On August 15, 1914, under the decision in the fifth supplemental order of Application No. 350, Southern California Edison Company was given authority to pledge said 321 bonds of the value of $1,000.00 each, said bonds bearing Nos. 17,552 to 17,872, inclusive, to secure obligations of Southern California Edison Company.

This fifth supplemental order was made alternative to the fourth supplemental order above referred to and under the fifth supplemental order Southern California Edison Company hypothecated with Harris Trust and Savings Bank of Chicago, Illinois, bonds of the above authorized issue Nos. 17,552 to 17,738, both inclusive, of the face value of $187,000.00, to secure the promissory note of Southern California Edison Company, payable ten (10) days after its date in the sum of $150,000.00, given to Harris Trust and Savings Bank of Chicago, Illinois, drawing interest at the rate of 7 per cent per annum.

Applicant shows that in order to secure said loan under conditions prevailing at the time, Southern California Edison Company found it necessary to agree with Harris Trust and Savings Bank of Chicago, Illinois, that if said loan were not paid at maturity or when demand was made therefor, Southern California Edison Company would sell to Harris Trust and Savings Bank of Chicago, Illinois, said $187,000.00 face value of its said bonds at the price fixed by the Commission, namely, 87½ per cent of the par value thereof, said Harris Trust and Savings Bank of Chicago, Illinois, to apply the proceeds to the payment in full of the above described note of Southern California Edison Company and the interest thereon and return the balance of the proceeds from said sale to the Southern California Edison Company.

Southern California Edison Company now asks the Railroad Commission to approve such contract with Harris Trust and Savings Bank of Chicago, Illinois, permitting the sale of said $187,000.00 face value of its bonds at 87½ per cent of the par value thereof and with the proceeds of said sale to pay its said note above described for $150,000.00 and the interest thereon, the balance of said proceeds of said sale to be returned to the treasury of said Southern California Edison Company to be used in such manner as may hereafter be permitted by the Railroad Commission.

I recommend that the application be granted and submit the following form of order:

ORDER.

Whereas Southern California Edison Company was heretofore given permission under Application No. 350 to sell and deliver to the amount of $2,500,000.00 its bonds bearing interest at the rate of 5 per cent per annum, due November 1, 1939, said bonds to be sold at 89 per cent of their par value;

And whereas Southern California Edison Company having sold all of said bonds except 321 bonds of the denomination of $1,000.00 each

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and finding it impossible to sell the remainder of the bonds at the price specified in the order under Application No. 350, by the Commission, namely, 89 per cent of its face value, applied for and received permission of this Commission to sell the remaining 321 bonds at 87½ per cent of their face value, and thereafter, to wit, on August 15, 1914, applied for and received permission from this Commission to hypothecate $187,000.00 face value of said bonds, being bonds Nos. 17,552 to 17,738, both inclusive, with the Harris Trust and Savings Bank of Chicago, Illinois, to secure a promissory note of the Southern California Edison Company for $150,000.00 payable ten days after date at the rate of interest of 7 per cent per annum;

And whereas, owing to disturbed financial conditions, Southern California Edison Company found it necessary in order to secure the $150,000.00 from the Harris Trust and Savings Bank of Chicago, Illinois, to give to said Harris Trust and Savings Bank of Chicago, Illinois, an option to buy said $187,000.00 face value of its bonds, permission to hypothecate which had been given by the Railroad Commission, Southern California Edison Company now asks the Railroad Commission to approve of its said act in giving to Harris Trust and Savings Bank of Chicago, Illinois, said option, and for permission to sell to Harris Trust and Savings Bank of Chicago, Illinois, at 87½ per cent of face value the said bonds to the amount of $187,000.00 face value from the proceeds of which sale it will pay and discharge its note of $150,000.00 to the Harris Trust and Savings Bank of Chicago, Illinois, with interest thereon, the remainder to be placed in the treasury of the Southern California Edison Company to be expended thereafter under the direction of the Railroad Commission;

And whereas the Commission finds that the acts of the Southern California Edison Company, as herein set forth, have been proper and justifiable under the circumstances,

It is hereby ordered that Southern California Edison Company be and it is hereby given authority to sell to Harris Trust and Savings Bank of Chicago, Illinois, at not less than 87½ per cent of face value, its bonds in the amount of $187,000.00 face value, and from the proceeds of said sale to pay and discharge its note of $150,000.00 with interest thereon to the Harris Trust and Savings Bank of Chicago, Illinois, and to return the remainder of the proceeds of said sale to the treasury of Southern California Edison Company to be thereafter used in such manner as may be permitted by the Railroad Commission.

Southern California Edison Company is hereby directed to notify the Commission, in writing, of the discharge of the said note to the Harris Trust and Savings Bank of Chicago, Illinois, and of the return to the treasury of Southern California Edison Company of the remainder of the proceeds from the sale of said bonds.

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The foregoing sixth supplemental opinion and order are hereby approved and ordered filed as the sixth supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of September, 1914.

DECISION No. 1799.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO CHARGE TO DIAMOND MATCH COMPANY A RATE DIFFERING FROM THAT CONTAINED IN ITS SCHEDULES ON FILE WITH THE RAILROAD COMMISSION.

Application No. 1274.

Decided September 15, 1914.

Applicant, Pacific Gas and Electric Company, desiring to renew a power contract with the Diamond Match Company containing a rate considerably lower than its published schedules, petitions the Commission for permission to execute such a contract for a five year period.

Held, That though the rate contained in proposed contract will not yield a fair return upon the investment in equipment used in the service of the Diamond Match Company such investment has already been made, and to discontinue its use would but render the entire investment practically valueless, and also in view of the fact that applicant has considerable surplus energy, application granted, provided that said rate shall likewise be open to other consumers using a like amount of energy, and that such contract shall not be binding upon the Commission.

Leo H. Susman, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application by Pacific Gas and Electric Company for authority to charge Diamond Match Company a rate less than the rate specified for this class of service in the rates of Pacific Gas and Electric Company on file with this Commission. A public hearing on said application was held in San Francisco on September 5, 1914.

On April 17, 1910, Pacific Gas and Electric Company entered into a contract with Diamond Match Company for electric energy, to be supplied at Barber and Chico, at the rate of .5 cent per kilowatt hour. The term of this contract was four years, and the low rate therein specified was presumably the result of competition then existing between Pacific Gas and Electric Company and Sacramento Valley Power Company in and adjacent to the city of Chico. This contract has now expired and Pacific Gas and Electric Company desires to renew the same for a period of five years from June 15, 1914, at the rate of .65

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cent per kilowatt hour, in accordance with terms specified in a proposed agreement, a copy whereof is attached to the petition herein and marked "Exhibit A."

In Case No. 400, *Town of Antioch* vs. *Pacific Gas and Electric Company,* this Commission found that the average cost to Pacific Gas and Electric Company for production and transmission of electric energy, including interest on the investment, is .7312 cent per kilowatt hour, delivered at the low tension terminals of the substation transformers. This sum does not include any item for distribution or for substations.

In order to serve Diamond Match Company, Pacific Gas and Electric Company heretofore built a transmission line from its substation at Chico to the premises of Diamond Match Company. J. G. White & Company, in their report on the properties of Pacific Gas and Electric Company, estimate that the cost to reproduce new the investment of Pacific Gas and Electric Company necessary exclusively to serve Diamond Match Company, is $11,930.00. Without going into the details, it appears that the proposed rate to be accorded to Diamond Match Company, while exceeding the bare cost of service, exclusive of interest, will not be sufficient to return to Pacific Gas and Electric Company even as much as one half of the interest to which the company claims to be entitled. On the other hand, the former rate of .5 cent per kilowatt hour involved a greater loss than the proposed rate, so that the new rate is a step in the right direction. Furthermore, if Pacific Gas and Electric Company should lose this business, the investment which the company has already made under the former contract to serve Diamond Match Company might be rendered valueless except for scrap. Finally, it appears from the evidence in the *Town of Antioch* case that Pacific Gas and Electric Company should have excess energy during this year, so that the company naturally desires to secure the additional gross revenue which will result from this business and which will amount to some $13,000.00 per year, even though the company does not receive the full return to which it believes itself to be entitled.

The situation is complicated by the fact that other consumers of Pacific Gas and Electric Company who are approximately in the same class as Diamond Match Company or in a better class, are paying a higher rate than that which is to be accorded to Diamond Match Company. If any of these consumers apply for a reduction in their rates, it may be necessary to open up the entire matter.

After a careful consideration of all the aspects of the question, I recommend that the application be granted, subject to the conditions specified in the order.

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I submit herewith the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for an order authorizing it to serve electric energy to Diamond Match Company at the rate of .65 cent per kilowatt hour, under the terms specified in agreement between said companies which is attached to the petition herein and marked "Exhibit A," this rate being less than the schedule rate of Pacific Gas and Electric Company on file with the Railroad Commission and applicable to this class of business, and a public hearing having been held on said application,

It is hereby ordered that said application be and the same is hereby granted, subject to the following conditions:

1. Such losses, if any, as may be incurred by Pacific Gas and Electric Company from this business shall be borne by Pacific Gas and Electric Company and not by the company's other consumers, or any of them.

2. The rate hereby authorized will be deemed by the Railroad Commission as applicable to other consumers of Pacific Gas and Electric Company, who may show themselves to be consuming electric energy under circumstances fairly comparable with the conditions surrounding the consumption of electric energy by Diamond Match Company.

3. The Railroad Commission reserves the right, as in all cases of this kind, to reopen this matter at any time, without being bound by the five-year provision of the agreement.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of September, 1914.

DECISION NO. 1800.

BUSINESS MEN'S CHAMBER OF COMMERCE OF HEALDSBURG

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 606.

Decided September 15, 1914.

Complainant alleges that respondent's depot in the town of Healdsburg is not properly lighted, and therefore a menace to persons boarding or alighting from trains after dark; that its lavatories are not supplied with towels, and petitions the Commission to also compel respondent to maintain automatic wigwag signals at three certain grade crossings within said town.

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Held, Respondent directed to install and maintain two 100 candle power tungstens at advantageous points so as to properly light its depot at Healdsburg, also maintain a supply of towels in lavatories on all boats and trains and to construct, within ninety days, automatic signal devices at Grant and North street crossings in said town.

E. M. Norton, for Complainant.

Lilienthal, McKinstry & Raymond and *Albert Raymond*, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

In this case the Business Men's Chamber of Commerce of Healdsburg petitions the Commission for an order requiring the Northwestern Pacific Railroad Company (1) to furnish and maintain lights on its platform at its depot in the city of Healdsburg, that all exits and landings from passenger trains may be thoroughly illuminated after dark; (2) to install and maintain a sufficient supply of towels in the lavatories of its boats and trains for the accommodation and use of the traveling public; and (3) to install and maintain suitable warning devices at the highway crossings of Matheson, North, and Grant streets, to afford protection and warning to users of the highway at the respective streets.

The present lighting facilities at Healdsburg Station (a combined freight and passenger station) consist of three 100-watt tungsten lamps, one of which is so located as to serve the freight platform. A second light is located in front of the ticket office, and the third light is located near the end of the station, serving the point at which passengers approach the station from the street as well as furnishing light on the track side of the station.

A cluster of two lights, each of 40-watt capacity, is maintained by the city of Healdsburg over the center of the street approaching the station, and while these lights render service in the illumination of the approach to the station from the street, they do not assist in the illumination of the station platform at the point where northbound passenger trains stop to discharge passengers. The efficiency of the light located to serve the freight platform is materially lessened as being of service in the illumination of the station platform on which passengers alight by the practice of permitting freight cars to stand on the "house-track" (which is between the station and the main line on which passenger trains receive and discharge passengers) for loading or unloading freight.

The principal objection regarding the inadequate lighting facilities is made by passengers arriving from the south on the evening trains, such trains usually consisting of three or four cars. It appears to be customary for the Northwestern Pacific Railroad to stop the trains arriving from the south so that the baggage car is about opposite the baggage room of the Healdsburg Station, and passengers alighting from the forward steps of the smoking car have proper light on the station

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platform, but those alighting from the rear platform of the smoking car, or either platform of the day coach (or coaches, should four cars be in service), have no illumination of the platform to aid in safely alighting, and as aged and infirm people, ladies and children are occupants of the day coaches, proper illumination of the station platform should be provided as a measure of safety and to prevent accidents.

I am of the opinion that the lighting facilities at the station of Healdsburg can be satisfactorily improved by the installation and maintenance of two additional lights, each of 100-watt capacity, one to be located over the station platform at a point approximately opposite a tank or pump-house about 200 feet south of Healdsburg Station; the other to be located at a point on the south end of the freight portion of the Healdsburg Station, and to be placed at a height sufficient to illuminate the station platform where passengers alight and in such manner that light will be available for passengers even when freight cars may be standing at the freight house.

The furnishing of towels in the lavatories of the boats and trains of the Northwestern Pacific Railroad is a convenience for passengers that has become customary, by reason of such facilities being furnished by the transcontinental lines, and by reason of such custom and for sanitary reasons, the traveling public request that such conveniences be available. At the hearing of this case the counsel for the Northwestern Pacific Railroad advised that the lavatories on the boats and on all passenger coaches equipped with wash basins had been provided with paper towels for the convenience and use of the company's patrons.

The highway crossings in the city of Healdsburg considered in this case are those located at Grant, North, and Matheson streets, and for convenience the conditions existing at each of these intersecting crossings will be considered separately.

At Grant street the view on the railroad looking north is unobstructed. The view on the railroad looking south is obscured on the town side by an orchard and on the other side by the buildings comprising the fruit packing plant of the firm of Miller & Gobbi. The highway view looking away from the town is obscured on the north side by an orchard but has an unobscured view on the south side. The highway view looking toward Healdsburg is obscured on the north side by the buildings constituting the fruit packing plant of the firm of Miller & Gobbi, and by a large tree. On the north side the view is fairly clear and unobstructed. The highway approach from this side is on a descending grade. Grant street is a main traveled road leading from Healdsburg to an agricultural district known as Dry Creek Valley, and is used extensively by teams and automobiles. Owing to the heavy travel across the railroad track at this crossing and the fact that the approaches to the crossing are obscure, the necessity for some form of crossing protection or auto-

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matic alarm bell and wigwag device is apparent, and it is my opinion that such a device should be installed at this point.

At North street the railroad view looking south is entirely obscured on the town side by buildings. The track curves toward the town and the crossing is located on the curve. This crossing is located just inside the north yard limits of the city of Healdsburg. The railroad view looking north is clear on the side away from town, but is entirely obscure on the town side on account of shade and fruit trees. The approach on the highway looking away from Healdsburg is entirely obscured on the south side by reason of two barns located close to the track and on the north side by reason of two residences and a row of trees, which latter are located on the street curb line. The highway view of this crossing looking toward Healdsburg has a clear view of the crossing on the north side until at a point about 150 feet from the crossing where the view is badly obscured by five large trees, which are located on what would appear to be a proposed street curb line. On the south side there is a practically clear view, but as the railroad track is on a 3° 30′ curve this view is restricted to a point about 550 feet south of the crossing.

North street is a main traveled street leading to the territory known as Dry Creek Valley and is also used as a method of access to portions of the Russian River. The travel over this street is not as great as that existing at Grant street, but due to the obscurity of the view from the highway approaches, and the further fact that the railroad is located on a curve at this point, the danger caused by the obscurity and curvature is about equivalent to that existing at Grant street where the heavy travel on the highway renders the installation of an automatic flagman or wigwag signal necessary as a safety measure for the protection of the public using the highway. I am of the opinion that the safety of the public using North street crossing of the Northwestern Pacific Railroad in the city of Healdsburg requires the installation of an automatic wigwag warning signal equipped with a bell, this for the reason that the obscurity of this crossing and the fact that the railroad at this point is located on a curve contribute materially to the hazard of accident at this particular crossing.

At Matheson street the railroad view looking south shows the crossing on a curve with the view obscured on the town side by a dense growth of young trees, a garden, and a galvanized iron building, occupied by the Healdsburg Oil Company. The view on the side away from Healdsburg is partially obscured by a row of trees planted just outside the railroad right of way, evidently originally intended for a windbreak. The railroad view looking north shows the crossing on a curve with the view obstructed on the Healdsburg side by a packing house, its adjacent buildings and by trees on the street. The view is obstructed on the side

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away from town by a dense orchard. The view on the highway looking away from Healdsburg is obscured on the north side by a young orchard and a galvanized iron building, occupied by the Healdsburg Oil Company. The view on the south is obscured by a packing-house, its adjacent buildings and trees. The highway approach on this side is on an ascending grade to the crossing. The highway approach toward Healdsburg is obscured toward the north by a row of trees, a windmill and a large oak tree. Toward the south the view is obscured by an orchard.

Matheson street is also a main traveled road leading to a portion of Dry Creek Valley and the territory in the vicinity of the Russian River, but it is not according to testimony developed at the hearing of this case, used to the same extent as is Grant street or even North street. A further fact developed is that Matheson street is not only within the yard limits of the city of Healdsburg, where a speed ordinance of ten miles per hour is in effect by resolution of the city trustees and the time table rules of the Northwestern Pacific Railroad Company, but also that Matheson street, being but a short distance from the station of Healdsburg, trains pass over the crossing at Matheson street under control at all times and in either direction, due to the slowing down of southbound trains to make the station stop and the fact that northbound trains have not reached the speed limit permissible in the city limits of Healdsburg after having made the station stop. In view of these facts, I am of the opinion that no undue hazard will be imposed on the travelers on the highway at Matheson street if at the present time no additional warning protection be installed at this point. The train service of the Northwestern Pacific Railroad Company at the present time is of limited extent, and the comparatively moderate speed in evidence at Matheson street leads to the conclusion that the installation of automatic protective devices could be deferred until such time as the train schedules of the Northwestern Pacific Railroad through the city of Healdsburg were considerably increased or the traffic on the highway at Matheson street was in greater frequency. I therefore submit the following form of order:

ORDER.

The Business Men's Chamber of Commerce of Healdsburg having filed a complaint requesting that the Northwestern Pacific Railroad be required to furnish and maintain adequate lights on its platform at its depot in the city of Healdsburg; that all exits and landings from passenger trains may be thoroughly illuminated after dark; that the said company be required to install and maintain a sufficient supply of towels in the lavatories of its boats and trains for the accommodation and use of the traveling public; and that the said company be required to install and maintain suitable warning devices at the highway crossings of Matheson, North, and Grant streets in the city of Healdsburg, to afford

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protection and warning to users of the highway at the respective streets, and a full investigation, and public hearing of the matters and things involved having been had, and the Commission being fully advised in the premises,

It is hereby ordered that the Northwestern Pacific Railroad Company install within a period of thirty (30) days from the service of this order and thereafter maintain two additional incandescent lights, each of 100-watt capacity, one to be located over the station platform at Healdsburg at a point approximately opposite a tank or pump-house situated about 200 feet south of Healdsburg Station; the other to be located at a point on the south end of the freight portion of Healdsburg Station on the track side of the station, and to be so located and at a height sufficient to illuminate the station platform where passengers alight so that proper illumination will be available even when freight cars are standing at the freight house; and

It is further ordered that the Northwestern Pacific Railroad Company immediately install and hereafter maintain towels in all lavatories on its passenger steamers and in all lavatories on its passenger cars when such lavatories are equipped with wash basins. The furnishing of paper towels is considered preferable as against cloth towels for sanitary reasons; and

It is further ordered that at the highway crossings of Grant and North streets in the city of Healdsburg that the Northwestern Pacific Railroad Company shall within ninety (90) days from the service of this order erect and thereafter maintain at each of these crossings an automatic crossing flagman, consisting of a wigwag and alarm bell, equipped with a lamp or lamps for the illumination of the device as a warning to the users of the highway during hours of darkness. These automatic crossing protective devices to be of a design either similar to that now installed by the Northwestern Pacific Railroad at or near its station of San Anselmo, or any other design or type that may be presented by the Northwestern Pacific Railroad Company and which may be approved by this Commission. The Northwestern Pacific Railroad Company shall also present within thirty (30) days from the service of this order a sketch showing the crossing of Grant and North streets with its line of railroad and the points at which it is proposed to locate and install the automatic crossing flagman or wigwag signals for the approval of this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of September, 1914.

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Decision No. 1801.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR A CERTIFICATE DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF FRANCHISE RIGHTS GRANTED BY THE CITY OF GLENDORA.

Application No. 1308.

Decided September 17, 1914.

Report of the Commission.

Southern Counties Gas Company of California having applied to this Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted to applicant by the board of trustees of the city of Glendora, Los Angeles County, California, in Ordinance No. 50, adopted and approved on June 24, 1912, by which ordinance applicant is given the right, upon certain conditions, to construct and operate a gas distributing system within said city of Glendora, and the Commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby declared that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it by the board of trustees of the city of Glendora in Ordinance No. 50.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of September, 1914.

Decision No. 1802.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR A CERTIFICATE DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF FRANCHISE RIGHTS GRANTED BY THE CITY OF ORANGE.

Application No. 1307.

Decided September 17, 1914.

Report of the Commission.

Southern Counties Gas Company of California having applied to this Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted to applicant by the board of trustees of the city of Orange, Orange County, California, in Ordinance No. 87, adopted and approved on May 13, 1912, by which ordinance applicant is given the right, upon certain conditions,

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to construct and operate a gas distributing system within said city of Orange, and the Commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby declared that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it by the board of trustees of the city of Orange in Ordinance No. 87. It being understood, however, that this order in no way waives, in favor of the city of Orange, any of the powers of control over applicant now possessed by this Commission.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of September, 1914.

DECISION No. 1803.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE FRANCHISE RIGHTS GRANTED BY THE CITY OF SANTA ANA.

Application No. 1309.

Decided September 17, 1914.

REPORT OF THE COMMISSION.

Southern Counties Gas Company of California having applied to this Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted to applicant by the board of trustees of the city of Santa Ana, Orange County, California, in Ordinance No. 553, adopted and approved on February 3, 1913, by which ordinance applicant is given the right, upon certain conditions, to construct and operate a gas distributing system in the city of Santa Ana, and the Commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby declared that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it in Ordinance No. 553 by the board of trustees of the city of Santa Ana.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of September, 1914.

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DECISION NO. 1804.

IN THE MATTER OF THE APPLICATION OF D. A. GATTO FOR APPROVAL OF WHARF FRANCHISE.

Application No. 1323.

Decided September 19, 1914.

REPORT OF THE COMMISSION.

D. A. Gatto having applied to this Commission for approval of the award to applicant of a renewal of a wharf franchise by the board of trustees of the city of Pittsburg, Contra Costa County, California, in Ordinance No. 22 "A," passed and adopted on November 4, 1913, by which ordinance applicant is granted a renewal for the period of twenty (20) years of that certain wharf franchise granted by the board of supervisors of Contra Costa County on March 16, 1896, and the Commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted.

It is hereby ordered that the sale and award to D. A. Gatto by the board of trustees of the city of Pittsburg, in Ordinance No. 22 "A," of the renewal for twenty (20) years of the wharf franchise theretofore granted applicant by the board of supervisors of Contra Costa County on March 16, 1896, be and the same is hereby approved;

It is further ordered that this order shall not become effective until applicant shall have filed with the city clerk of the city of Pittsburg a certified copy of this order.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of September, 1914.

DECISION NO. 1805.

IN THE MATTER OF THE APPLICATION OF VALLEY PIPE LINE COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1246.

Decided September 19, 1914.

Applicant, Valley Pipe Line Company, authorized to issue 53,184 shares of stock of the par value of $100.00 per share, to be sold at not less than 80, proceeds to be used in the construction of an oil pipe line from Coalinga Fields to Martinez; provided that none of such stock shall be issued until estimates of cost of proposed construction shall have been submitted and approved by the Commission, whereupon a supplemental order will be issued authorizing the necessary stock to cover such approved construction estimates.

A. C. Greene, for Applicant.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Valley Pipe Line Company was organized on April 16, 1914, primarily for the purpose of engaging in the business of transporting petroleum and its products. It now makes application to this Commission for authority to sell 53,184 shares of its capital stock of the par value of $100.00 per share, or a total par value of $5,318,400.00. It proposes to sell this stock at $80.00 per share, realizing therefrom the sum of $4,254,720.00. It is the intention of the applicant to construct a pipe line from the property of the California Oil Fields, Limited, near Coalinga, Fresno County, to Martinez, on San Francisco Bay, in Contra Costa County, a distance of approximately 175 miles. The applicant has submitted estimates to this Commission tending to establish that the cost of such a pipe line with its necessary appurtenances would be $4,254,720.00.

The control of applicant is to be vested in the same interests which control the California Oil Fields, Limited, which owns a rich section of oil territory in Fresno County. It is in testimony that the California Oil Fields, Limited, has a potential output of 20,000 barrels per day. Some of the wells are now capped awaiting the construction of the pipe line. It is proposed to construct a pipe line of a capacity of 15,000 barrels per twenty-four hours which will be used to transport the petroleum from the California Oil Fields, Limited, to Martinez, where a refinery will be erected to handle the oil thus conveyed. Mr. Wynn Meredith, one of the engineers engaged upon the project for the applicant, testified that two thirds of the pipe would be eight inches in diameter, and the balance ten inches.

The so-called "hot system" will be employed, and eleven pumping stations will be installed. The applicant is now engaged in purchasing rights of way and has not determined finally upon the route which the line will follow.

Valley Pipe Line Company has an authorized issue of 100,000 shares of the par value of $100.00 per share, or a total of $10,000,000.00 par value. It has issued five shares for the purpose of qualifying directors.

The applicant has been brought into being by the Anglo-Saxon Petroleum Company, a British corporation which, in turn, is owned by the Schell Transport and Petroleum Company and the Royal Dutch Petroleum Company. The applicant requests that its stock be issued at $80.00 per share to the Anglo-Saxon Petroleum Company. Testimony was introduced to the effect that while the Anglo-Saxon Petroleum Company planned to purchase all of the stock at this price, the unusual circumstances created by the European war might entail some alteration of these plans, and it was desired, therefore, to have the stock issued at

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a figure which would make it more readily salable if offered to outside parties.

Applicant has not submitted in detail the estimates of its construction costs. These estimates, however, are now in process of compilation.

In the application herein and at the hearing thereon application was also made for a further issue of 5,000 shares of stock for promotion services of the Anglo-Saxon Petroleum Company. The details comprising these services were not definitely presented, and the application as to the $500,000.00 of stock will accordingly be denied without prejudice, pending a proper showing as to promotion services rendered.

A protest was entered in this case by Mr. Joel A. Hayes, of Oakland, but as this protest was later withdrawn, it need not be given further consideration.

It appears that the interests which will control these pipe lines will be identical with the interests controlling the California Oil Fields, Limited, the oil properties from which the petroleum will come, the proposed refinery and the selling agencies which will handle and distribute the refined product.

I believe a proper showing has been made that the construction of the pipe line is needed in connection with the petroleum business of the interests which control this applicant. I shall recommend that the application be granted, but believe the actual issue of the stock should be made from time to time as the work progresses and as detailed statements of estimates or of costs are filed with this Commission.

It is proper to state that while making this application, Valley Pipe Line Company reserved all of its rights to contest the jurisdiction of this Commission over its affairs.

I therefore submit the following form of order:

ORDER.

Valley Pipe Line Company having applied to this Commission for authority to issue 53,184 shares of capital stock of the par value of $100.00 per share and to use the proceeds for the purpose of constructing an oil pipe line from the lands of the California Oil Fields, Limited, near Coalinga, Fresno County, to Martinez, Contra Costa County, on San Francisco Bay, with necessary appurtenances.

And a hearing having been held and it appearing that the purposes for which applicant proposes to issue said stock are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Valley Pipe Line Company be granted authority to issue 53,184 shares of its capital stock of the par value of $100.00 per share.

The authority herein given is given upon the following conditions and not otherwise:

1. The applicant shall sell said stock at not less than $80.00 per share,

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this minimum being fixed in view of disturbed European conditions which may necessitate a resale of a portion of this stock by the Anglo-Saxon Petroleum Company.

2. The proceeds derived from the sale of said stock shall be used for the purpose of constructing an oil pipe line from the lands of the California Oil Fields, Limited, near Coalinga, Fresno County, to Martinez, Contra Costa County, on San Francisco Bay, in accordance with general plans and specifications as outlined in the application herein.

3. None of the stock herein authorized to be issued shall be issued until the applicant shall have filed detailed estimates of cost or actual statements of costs with this Commission, and shall have received a supplemental order from this Commission authorizing the issue of stock in specified amounts as against these detailed estimates of costs or statements of actual cost.

4. Applicant may, without further order from this Commission, issue to Anglo-Saxon Petroleum Company 650 shares of stock in payment for advances in the sum of $52,000.00 made by said Anglo-Saxon Petroleum Company.

5. Valley Pipe Line Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein given is given as to such stock as shall have been issued on or before September 15, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of September, 1914.

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DECISION NO. 1806.

IN THE MATTER OF THE APPLICATION OF PIERCE WAREHOUSE COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1317.

Decided September 19, 1911.

Applicant, Pierce Warehouse Company, authorized to issue 340 shares of its capital stock of the par value of $100.00 per share, to be issued at par in exchange for certain warehouse property located at Suisun, California, provided that this amount shall not be taken before a rate fixing body as the fair value of the property purchased.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by Pierce Warehoues Company of Suisun, Solano County, for authority to issue three hundred and forty (340) shares of its capital stock of the par value of one hundred dollars ($100) per share, or a total par value of thirty-four thousand dollars ($34,000).

Applicant was incorporated on August 14, 1912, for the purpose of acquiring certain real estate and warehouses in Suisun on the Suisun Slough, and for conducting these properties as a public warehouse. Applicant states that these properties are particularly valuable for warehouse purposes, as they are located at the head of navigation upon the Suisun Slough and thus afford warehouse facilities to water and rail carriers between Suisun, Fairfield, and points north thereof and San Francisco and other bay points.

Applicant has acquired from William Pierce and Lewis Pierce certain properties consisting of a parcel of real estaate, two (2) wooden warehouse buildings, and a corrugated iron warehouse with landing, etc., together with appurtenances necessary to the warehouse business. Applicant values these properties at thirty-four thousand dollars (34,000) and asks for authority to issue three hundred and forty (340) shares of stock in payment for these properties to William Pierce and Lewis Pierce.

A portion of the warehouse property is to be used by the Northern Electric Railway Company in accordance with the terms of a contract filed with the application herein. This contract provides for certain payments by the Northern Electric Railway Company. It is not necessary in these proceedings to pass upon this contract, but I am of the opinion that the charges to the Northern Electric Railway Company are in the nature of rates and should therefore be filed for approval as part of the rates of the applicant herein.

In passing upon this matter, I shall not assume to determine the fair value of the property transferred and shall recommend that the appli-

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cation be granted on the condition that the authorization of the stock shall not be regarded as determinative of the value of the land and warehouse buildings transferred.

The applicant herein has an authorized issue of one thousand (1,000) shares of stock and has issued but four (4) shares to qualify directors. The three hundred and forty (340) shares, for the issue of which applicant now requests authority, will include the four (4) shares already put out to qualify directors.

ORDER.

Pierce Warehouse Company having applied to the Railroad Commission for authority to issue three hundred and forty (340) shares of capital stock of the par value of one hundred dollars ($100) per share, and a hearing having been held and it appearing that the purposes for which it is desired to issue said stock are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that the Pierce Warehouse Company be given and is hereby given authority to issue three hundred and forty (340) shares of capital stock of the par value of one hundred dollars ($100) per share.

The authority herein given is given upon the following conditions and not otherwise:

1. The tsock herein authorized to be issued shall be issued to William Pierce and Lewis Pierce in payment for certain real estate in Suisun on the Suisun Slough and for two (2) wooden warehouses and one (1) corrugated iron warehouse and for appurtenances thereto incidental to the warehouse business, said property being more particularly described in applicant's Exhibit "C," on file with the application herein and more particularly located by applicant's map filed with the application herein.

2. The authority herein given shall not be binding upon this Commission or other governmental or rate-fixing body as determining the value of the properties for which said stock of the par value of thirty-four thousand dollars ($34,000) is herein authorized to be issued.

3. The authority herein given to issue said stock shall not in any proceeding be urged as an approval by this Commission of the contract of applicant herein with the Northern Electric Railway Company, a copy of said contract being attached to the application herein as Exhibit "D."

The authority herein given is given as to such stock as shall have been issued on or before September 30, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of September, 1914.

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DECISION NO. 1807.

IN THE MATTER OF THE APPLICATION OF FAIRFAX DEVELOPMENT COMPANY FOR PERMISSION TO INCREASE WATER RATES.

Application No. 1311.

Decided September 19, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above entitled matter having, on September 17, 1914, made written request to this Commission that the above entitled application be dismissed,

It is hereby ordered that the above entitled matter be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of September, 1914.

DECISION NO. 1808.

BELVEDERE CIVIC ASSOCIATION

vs.

JANSS COMPANY.

Case No. 454.

Decided September 19, 1914.

Complainant alleges that respondent requires a deposit of $25.00 before installing a service connection and meter, and contends that such a charge is unjust and unreasonable and petitions the Commission to compel respondent to make such installations free of charge.

Held, As held by the Supreme Court of California, proper authorities have the power to compel utilities to install service connections and meters at their own expense; that respondent should be required so to do, though owing to circumstances affecting this particular case, certain exceptions are permissible. Respondent directed to install all meters and service connections at its own expense, excepting that when such connections will not be immediately used, a deposit of $15.00 shall be collected, such deposit to be applied to monthly bills when service shall have commenced.

H. G. Nations and *D. W. Garwood*, for Complainant.

Tracy C. Becker, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

The complaint in this case alleges that the Belvedere Civic Association is an unincorporated association of present and prospective water users

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residing in that territory adjacent to the city of Los Angeles, and commonly known as the "Belvedere District"; that the defendant Janss Company is engaged in supplying water in said district; that said company has in effect a regulation requiring that service connections from the mains of the company to the premises of consumers will be made only upon the payment of a service connection charge of $25.00 and that such a regulation is unjust and unreasonable. The complainant asks that this Commission make an order requiring the defendant company to discontinue making this service connection charge.

The answer of Janss Company admits that it is collecting and has in effect this $25.00 service connection charge, but denies that such a charge is unjust and unreasonable; alleges that demands are frequently made upon the company for service connections by parties who do not propose to become users of water, but merely desire to increase the salability of their lands by having a service connection installed, and that it would be unjust to require the company in such cases to make the service connection at its own expense. The defendant therefore asks that the complaint be dismissed.

Only one issue is presented in this case, namely, the reasonableness of the service connection charge of $25.00 now being collected by the Janss Company in the "Belvedere District." This Commission has heretofore held, in cases numbered 365 and 383—*City of Glendale* vs. *Title Guarantee and Trust Company, Trustee*, for the *Glendale Consolidated Water Company and City of Glendale* vs. *Miradero Water Company*—that it is the duty of a public utility water company to install, at its own expense, meters and service connections from the mains of the water company to the premises of the consumer. A review proceeding to test the validity of the Commission's order in these two cases was filed in the Supreme Court of this state. That case was pending before the Supreme Court when the hearing in the present proceeding was had before this Commission in the city of Los Angeles on September 27, 1913. At that hearing the parties to this proceeding stipulated that the decision of the Commission in this proceeding might await the decision of the Supreme Court in the above mentioned case. It was further stipulated that all moneys collected by the defendant company for service connections during the pendency of this proceeding would be held subject to the decision of the Supreme Court in the Glendale cases, and refunded in the event that the Supreme Court decided that it was the duty of a public service water company to install at its own expense meters and service connections from the mains of the company to the premises of the consumers.

The Supreme Court has now rendered its decision in *Title Guarantee and Trust Company and Miradero Water Company* vs. *Railroad Commission of the State of California*, Vol. 48, Cal. Dec. 171. In that

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decision the Supreme Court upholds the contention of the Commission that it is the duty of a public utility water company to install, at its own expense, the meter and service pipes from the mains of the water company to the premises of the consumer.

While the order of the Commission is annulled on the ground that the city of Glendale, and not the Railroad Commission, has power to compel the performance of this duty, the court clearly decides that it is the duty of the public water utility to install the service connection pipes at its own expense, and also that an order from the proper authority that the company shall also install meters at its own expense would be valid.

In reliance upon this decision, I must hold, in accordance with the decision of the Railroad Commission in the *Glendale* cases, that it is the duty of the Janss Company to install meters and service connections within the "Belvedere District" at its own expense, and that the present service connection charge of $25.00 now imposed by the Janss Company is unjust and unreasonable and must be abolished.

I am impressed, however, with the contention advanced by the Janss Company at the hearing that it would be unjust to require the company the duty of the Janss Company to install meters and service connections in those instances in which the immediate use of water through such connections is not assured. The company should not be required to install meters and service connections unless there is an immediate prospect of a return to the company in rates for water supplied through such connections. I shall, accordingly, allow the Janss Company, in every case in which it does not appear that water will be immediately used through the connection demanded, to require that the sum of $15.00 be paid to the company by the party demanding the connection, this sum to be applied by the company upon all monthly bills incurred by the consumers for water furnished through said connections until the entire sum of $15.00 has been absorbed in the amounts properly chargeable to said consumer for water furnished. In allowing the company to make this charge in all cases in which it does not appear that water will be immediately used through the connection, it must not be understood that the Commission regards such a rule as proper in all cases. The facts and circumstances peculiar to this case, in my opinion, make such a rule proper in this instance. It is primarily the duty of public utility water companies to make service connections and install meters at their own expense. Exceptions to this general rule should be allowed only when peculiar facts and circumstances justifying such exceptions exist. The conditions surrounding the service of water in the "Belvedere District" are such that exception may properly be made.

It will be expected that all payments to the Janss Company for service connections made during the pendency of the present proceed-

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ing, including those payments made under protest, which were referred to at the hearing, will be refunded by the company to the consumers excepting in such instances, if any exist, where water has not been used through a connection since the same has been installed.

I herewith submit the following form of order:

ORDER.

This case having come on regularly for hearing and the Commission being duly advised in the premises, the Commission hereby finds as a fact that the regulation of the Janss Company requiring that a charge of $25.00 be paid for service connections installed within the "Belvedere District" is an unjust and unreasonable regulation.

It is hereby ordered that said regulation be and the same is hereby abrogated, and that the Janss Company be and it is hereby ordered to make service connections to the property line and install meters free of charge for persons living in the "Belvedere District" along the mains or pipe lines of said company and desiring connection for the service of water, except in those instances in which it appears that the connection requested will not be immediately used for the supply of water, and in those cases Janss Company is authorized to collect from the person requesting the connection the sum of $15.00 in advance of installing of meter and service connection, which sum shall be applied upon all bills properly becoming due for water furnished through such connection until the entire sum has been absorbed in amounts due for water so supplied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of September, 1914.

DECISION NO. 1809.

IN THE MATTER OF THE APPLICATION OF VINCENZO FLORES FOR APPROVAL OF WHARF FRANCHISE.

Application No. 1324.

Decided September 19, 1914.

REPORT OF THE COMMISSION.

Vincenzo Flores having applied to this Commission for approval of the award to applicant of a renewal of a wharf franchise by the board of trustees of the city of Pittsburg, Contra Costa County, California, in Ordinance No. 30, passed and adopted on April 22, 1914, by which ordinance applicant is granted a renewal for the period of twenty (20)

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years of that certain wharf franchise granted by the board of trustees of the city of Pittsburg on July 5, 1904, and the Commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby ordered that the sale and award to Vincenzo Flores by the board of trustees of the city of Pittsburg, in Ordinance No. 30, of the renewal for twenty (20) years of the wharf franchise theretofore granted applicant by said city on July 5, 1904, be and the same is hereby approved.

It is further ordered that this order shall not become effective until applicant shall have filed with the city clerk of the city of Pittsburg a certified copy of this order.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of September, 1914.

Decision No. 1810.

IN THE MATTER OF THE APPLICATION OF THE CITY OF PASADENA FOR AN ORDER AUTHORIZING SAID CITY TO CONSTRUCT A CROSSING AT GRADE ACROSS THE RIGHT OF WAY AND TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, AND FOR AN ORDER REQUIRING SAID RAILWAY COMPANY TO LOWER THE GRADE OF ITS ROADBED AND TRACKS AT CERTAIN CROSSINGS AND CERTAIN POINTS ALONG THE LINE OF ITS RIGHT OF WAY IN SAID CITY.

Application No. 1260.

Decided September 21, 1914.

Applicant, City of Pasadena, applies for permission to construct Sierra Bonita avenue, in said city, across the tracks of the Atchison, Topeka and Santa Fe Railway Company at grade, and also for an order compelling said railway company to lower its grade over a number of streets.

Held, Application for grade crossing granted, provided that applicant shall stand the necessary expense of constructing same, and that it shall be constructed to meet the present level of the tracks. Application to compel railway company to lower street grades dismissed.

E. W. Camp, for the Atchison, Topeka and Santa Fe Railway Company.

John Munger, for City of Pasadena.

Report of the Commission.

Edgerton, *Commissioner.*

The City of Pasadena on August 1, 1914, filed an application with the Commission in the above entitled matter, and thereafter, on September 7, 1914, a public hearing was had at Pasadena, at which the two parties in interest were represented.

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This application asks for an order in two matters, first, permission to construct Sierra Bonita avenue across the track of the Atchison, Topeka and Santa Fe Railway at grade in the place and manner shown on the map and profile accompanying the application, and, second, requiring the Atchison, Topeka and Santa Fe Railway Company to lower its grade through the city of Pasadena at several points where the street grade intersects the tracks of the railway company and where the grades of the street and the track do not coincide.

Considering first the crossing: Sierra Bonita avenue is a north and south street, which is open and graded north and south of the track to the right of way line of the Santa Fe. The right of way at this point is not fenced and although there is no crossing open to the public, pedestrians now cross the track at will. Trees and a barn at present obstruct the view of the track from the street. To the east of Sierra Bonita avenue the nearest street open is Allen avenue, at a distance of about 1,300 feet. To the west the nearest open street is Hill street, about the same distance away.

North of the track and connecting with Sierra Bonita avenue are two east and west streets, namely Locust and Corson. On both of these streets, as well as on the streets connecting with Sierra Bonita on the south of the track and on Sierra Bonita itself, are many homes and it is mainly to serve the people living there that this crossing is applied for. Sierra Bonita avenue will probably never be a main north and south thoroughfare, but the City High School is on this street at its intersection with Colorado, which is about 1,400 feet south of the crossing, and north of the crossing is the primary school near the intersection of this street with Villa street, which is about 1,400 feet north of the track.

The territory east and west of Sierra Bonita south of the track, as well as north of it, is tributary to the primary school, and all of the territory north of the track is, of course, tributary to the high school. Testimony on this point showed that very many school children and teachers cross the track now at this point and to deprive them of the crossing would necessitate about half a mile of additional walk each way to and from school.

It was stated that the lack of the crossing caused considerable inconvenience to drivers of vehicles, by reason of the fact that the street is graded to the track but not across it, and it is apparent from the maps that the nearest way for people living on Corson, Locust and the north part of Sierra Bonita to reach a car line is via Sierra Bonita to Colorado.

Testimony was introduced which showed that the construction of this crossing would remove the obstacles to the view which now exist, and it was also stated, and I believe it to be a fact, that with these

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obstacles removed and proper protection installed, the crossing will not be dangerous and it will certainly be safer for pedestrians than it is at present.

Considering the long distance from the next adjacent crossing in both directions, the need of the crossing for the use of school children and teachers and the added convenience it would bring to other pedestrians and to the drivers of vehicles, I am of the opinion that the city of Pasadena should be granted permission to install a grade crossing at this point. I believe, however, it should be protected by a suitable crossing protection device, and I see no reason why the cost of the crossing and the protection device should not be borne by the applicant.

In regard to changing the grade of the track at street intersections: Three streets were especially mentioned in the application, Elm street, the proposed crossing at Sierra Bonita avenue and Meredith avenue. At present the grade of the track at Elm street is 1.6 feet above the grade of the street. It was shown that at one time the grades of the street and of the track coincided at their intersection, but that the grade of the street was lowered some years ago without reference to the track. Although possibly part of the present difference in elevation was made by the Santa Fe in raising the track, the greater part of it was undoubtedly due to the lowering of the street grade by the city. In any event, the grade of the track was substantially as it is now when the street was paved.

The engineer for the Santa Fe testified that it would cost his company in the neighborhood of $1,350.00 to reduce the grade as applied for at this street, and that such reduction would not be satisfactory to the railroad company, since it would result in a broken grade line. There was also some doubt expressed as to the possibility of taking care of the water which flows along the street, and under the track, due to the decrease in the culvert headroom which would follow the lowering of the street grade.

I am of the opinion that to require the railway company to lower their grade at this point 1.6 feet at an expenditure of $1,350.00 would be to require it to spend money for which no equivalent benefit would accrue either to the city or to the users of the crossing, and that such change, even if it were of much benefit to the city and it were equitable for the railway company to pay for this benefit, would work a hardship on the company by forcing them to the use of a broken grade line when elsewhere, as is a well known fact, railroad companies spend large sums of money to avoid just such broken grade lines as this would necessitate.

Regarding the danger at the crossing: The only danger particularly mentioned is due to the steepness of the grades of the approaches. This is a matter the city can easily rectify at no great cost, and I recommend to the city commissioners of Pasadena the elimination of whatever

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danger may now exist at this crossing through reducing the grade at this point by suitably lengthening the approaches. At Sierra Bonita and Meredith avenues the streets are not yet open across the track. At the former street the difference of grade is 3 feet and at the latter 4 feet, the track being above the street in both cases. Meredith avenue, it was shown, might never be opened as a street across the track, and at Sierra Bonita the future crossing can be so graded that the present difference in grades will be overcome by raising the street grade or using longer grades of approach.

In regard to this whole question of lowering grades, I believe that it will be a question of only a short time until the city of Pasadena and the Santa Fe Railway Company will have to get together on a comprehensive plan to eliminate all grade crossings in the city, on a fair basis to both the city and the company, and I believe that any considerable amount of money spent now in revising or reconstructing grade crossings will have a tendency to postpone the day when such desirable separation of grades will take place.

I am of the opinion, therefore, that that part of the application which refers to lowering grades should be denied.

I submit herewith the following form of order:

ORDER.

The City of Pasadena having applied to the Railroad Commission in the above entitled matter, and a hearing having been duly held at which the facts were developed as outlined above,

It is hereby ordered by the Railroad Commission of the State of California, that permission be and hereby is granted the city of Pasadena to construct Sierra Bonita avenue at grade across the track of the Atchison, Topeka and Santa Fe Railway Company at the location applied for and as shown by the map attached to the application. Said crossing to be made to conform to the existing grade of the Atchison, Topeka and Santa Fe Railway Company and to be constructed subject to the following conditions:

1. Said crossing shall be protected by a first-class automatic crossing flagman of a type approved by the Commission, and have as its salient features a gong or bell and swinging blade or disk which shall display a red light at night, and upon which shall be displayed suitable words to indicate its purpose.

2. Said crossing shall be constructed of a width of not less than 24 feet, with grades of approach not exceeding 4 per cent, and it shall in every way be made safe for the passage thereover of vehicles and other road traffic.

3. The entire expense of constructing the crossing together with the installation of the automatic crossing flagman hereinabove mentioned shall be borne by the applicant.

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4. The cost of maintaining said crossing hereafter in a good and safe condition shall be borne by applicant up to a line two feet outside of the rails of the Atchison, Topeka and Santa Fe Railway Company.

5. The cost of maintaining the crossing between the rails, and to a line two feet outside thereof, together with the cost of maintaining the crossing flagman hereinbefore mentioned, shall be borne by the Atchison, Topeka and Santa Fe Railway Company.

6. The Commission reserves the right to make such other orders in regard to said crossings as to it may seem right and proper and to revoke its permission if public convenience and necessity demands such action.

It is hereby further ordered, by the Railroad Commission of the State of California, that that part of the application requesting the Commission to make its order requiring the Atchison, Topeka and Santa Fe Railway Company to lower the grade of its track across Elm street, Sierra Bonita avenue and Meredith avenue and other streets, be and the same hereby is denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of September, 1914.

DECISION No. 1811.

GEORGE J. BIRKEL

vs.

LAUREL CANYON LAND COMPANY.

Case No. 541.

Decided September 21, 1914.

Complainant, alleging that he is being charged a greater rate than other consumers of respondent, petitions the Commission to fix a reasonable rate for water service.

Held, That respondent's present method of computing rates by street frontage is illogical and works a hardship on certain classes of consumers, like complainant, who having a residence constructed on a number of lots facing three streets is obliged to pay rates on the entire street frontage. Respondent directed to install a meter for all consumers using 10,000 gallons of water or over per month, excepting complainant, who has agreed to install his own meter, and to place in effect for such class of consumers a rate of 20 cents per thousand gallons up to 10,000 gallons, and 16 cents per thousand gallons in excess of this amount, with a minimum monthly charge of $2.00, such rates effective October 1, 1914.

W. H. Jameson, for Defendant.

E. S. Williams, for Complainant.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is a complaint by George J. Birkel against the charges made for water furnished him by Laurel Canyon Land Company. Answer was made to the complaint, and, in addition, defendant filed a cross complaint.

The plaintiff claims that he is being discriminated against, in that he is being charged a different or greater rate than is charged other consumers, and, further, that he is being charged more than the established rates. The defendant denies these allegations, and in a cross complaint alleges that plaintiff has failed to pay for water heretofore furnished him and prays that defendant be allowed to disconnect water service from certain of the lots owned by plaintiff, and in default of the payment of the water rates assessed against plaintiff for 1913 and 1914, that defendant be authorized to disconnect him from all water service.

Defendant owns and has subdivided into lots, certain lands in Laurel Canyon, near the city of Los Angeles, and as an incident to the sale of these lots, it has established a water supply system by which it furnishes the purchasers of its land.

Defendant claims that it charges for this water service only the cost of operation of its water plant, and for this reason it argues that it is not a public utility. I hold that it is a public utility under the reasoning in the opinion in Case No. 656.

The defendant insists that it makes a charge for water based on the cost of the operation of its plant, and it is alleged that such cost equals the sum of $10.00 per annum for each house with 50 feet of land frontage, and 10 cents per front foot per year for the additional frontage owned by the lot owner who makes use of the water belonging to the defendant.

Plaintiff admits that this is the charge which has been assessed against all consumers, but objects to its application to all of his frontage.

Originally this tract of land was divided into comparatively small lots, but plaintiff purchased a number of adjoining lots and has combined them into an estate upon which he has built a home and made many improvements. He claims that notwithstanding his lots are adjoining and form one piece of land upon which he has built his home and all of which constitute the grounds surrounding it, that each lot should be considered by itself and if no water is used on such lot no charge for water service should be made therefor.

Under the language in which the assessment or charge is stated by defendant, I can see no method of calculating the payment to be made by plaintiff except by measuring the entire frontage on all three streets or roads surrounding his property.

Admittedly, this is an entirely arbitrary method of fixing a rate. It

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is an attempt to measure the use of water in a way which may bring absurd results. For instance, if one of the streets in front of plaintiff's property should be abandoned, his water rate would immediately be considerably decreased, yet he would be using the same quantity of water.

It is impossible upon the evidence introduced in this case to determine what the payment for water should be which had been furnished in the past. The plaintiff contends that the application of the assessment or charge is improper, and, on the other hand, the defendant contends that this charge represents actual cost of service. But no evidence has been introduced which will warrant any conclusion as to whether this was the actual cost of producing service to plaintiff.

At the hearing plaintiff offered to install a meter at his own expense and to pay for water delivered to him a rate equal to the highest rate paid for water in Los Angeles County. All parties agreed that the Commission should fix a meter rate for plaintiff which would supersede and take the place of any charges now being made.

I think under all the circumstances that a meter should be installed and a rate fixed for service of water through it, and I believe this can be done by establishing a class based on the quantity of water used, in which class plaintiff would at once come.

Therefore, I recommend that an order be made establishing as a class all consumers using over 10,000 gallons of water per month, the service of such consumers to be metered and a rate to be charged therefor of 20 cents per thousand gallons, and 16 cents per thousand gallons for each additional one thousand gallons excess above 10,000 gallons per month with a minimum monthly charge of $2.00. Mr. Birkel having offered to pay for the meter, the company will not be required to install one on his service at its own expense.

I submit herewith the following form of order:

ORDER.

Complaint having been made by George J. Birkel against Laurel Canyon Land Company, and an answer and cross complaint having been filed thereto by defendant, and a public hearing having been had thereon, and the Commission being fully apprised in the premises,

It is hereby ordered, by the Railroad Commission of the State of California, that the Laurel Canyon Land Company establish for consumers using over 10,000 gallons of water per month a meter rate of 20 cents per thousand gallons for the first 10,000 gallons used and 16 cents per thousand gallons for each additional thousand gallons or fraction thereof, with a monthly minimum of $2.00.

It is hereby further ordered that a meter shall be installed upon plaintiff's service at his own expense.

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It is hereby further ordered that this rate shall go into effect on October 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of September, 1914.

Decision No. 1812.

IN THE MATTER OF THE APPLICATION OF PACIFIC LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING AN ISSUE OF STOCK AND BONDS.

Application No. 1222.

Decided September 21, 1914.

Pacific Light and Power Corporation authorized to issue 19,430 shares of its capital stock of the par value of $100.00 per share, to be sold at not less than 85, and $4,382,000.00 face value of its bonds to be sold at not less than 85, proceeds to be used to pay off floating indebtedness or for additions and improvements to its present hydroelectric system, provided that the entire amount of stock authorized shall be issued before the bonds, and that $1,500,000.00 of bonds authorized may only be issued under supplemental order after applicant shall have complied with certain requirements of its mortgage and deed of trust.

S. M. Haskins, for Applicant.

Report of the Commission.

Edgerton, *Commissioner.*

This is an application by Pacific Light and Power Corporation for authority to issue 19,430 shares of its first preferred 6 per cent cumulative stock, and $4,382,000.00 of its first and refunding mortgage bonds.

Applicant proposes to sell these securities as follows:

19,430 shares of first preferred 6 per cent cumulative stock at $85.00 per share	$1,651,550 00
$4,382,000.00 of first and refunding mortgage bonds at 85 per cent of par	3,724,700 00
Total	$5,376,250 00

Applicant proposes to apply the proceeds from the sale of the stock and bonds upon its floating indebtedness in the sum of $5,407,576.95 and for certain additions and betterments in connection with its hydroelectric construction work at Big Creek, Fresno County.

Applicant has been engaged in extensive hydroelectric development projects on Big Creek for which an initial installation of 40,000 kilowatts was projected, but which it is now enlarging to 60,000 kilowatts. Its transmission lines and other properties are being enlarged accordingly.

It is estimated by applicant's engineers that when this work shall

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have been completed it will have cost approximately $214.00 per kilowatt, or if expenditures for future development be included, approximately $241.00 per kilowatt.

Applicant presents a statement, in connection with its application, to the effect that for this hydroelectric project and for other additions and betterments to its system, it has invested for capital purposes the sum of $5,845,770.00 from funds obtained from sources other than the sale of stock and bonds. This sum, it states, is represented for the most part by its floating indebtedness.

The details bearing upon these capital expenditures are set forth in applicant's Exhibits "B," "C," and "D," attached to the application herein, to which reference is hereby made.

It appears that applicant is entitled under its mortgage and deed of trust to draw upon all but $1,500,000.00 of the bonds applied for. As there are further items in the exhibits presented which will require further investigation by this Commission, I shall recommend that the application be granted, with the reservation that a supplemental order be required as to $1,500,000.00 of the bonds.

I therefore recommend that applicant be granted authority to issue 19,430 shares of its first preferred 6 per cent cumulative stock, and $4,382,000.00 of its first and refunding mortgage bonds on the conditions as will appear in the order.

I submit herewith the following form of order:

ORDER.

Pacific Light and Power Corporation having applied to this Commission for authority to issue 19,430 shares of its first preferred cumulative stock at $85.00 per share, and $4,382,000.00 of its first and refunding mortgage bonds at 85 per cent of par value, and a hearing having been held, and it appearing to the Commission that the purposes for which it is proposed to issue said stock and bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Pacific Light and Power Corporation be given, and it is hereby given, authority to issue 19,430 shares of its first preferred 6 per cent cumulative stock, and

It is hereby further ordered that Pacific Light and Power Corporation be given, and it is hereby given, authority to issue $4,382,000.00 of its first and refunding mortgage bonds.

The authority herein given is given upon the following terms and conditions and not otherwise:

1. The bonds herein authorized to be issued shall be issued only after the applicant shall have issued the stock herein authorized to be issued.

2. Applicant shall sell the stock herein authorized to be issued at not less than $85.00 per share.

3. Applicant shall apply the proceeds from the sale of the stock

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herein authorized to be issued either upon its floating indebtedness as filed by the applicant herein as Exhibit "A," in connection with the application herein, or it shall apply said moneys upon additions and betterments to its properties.

4. If the applicant determines to use the proceeds from the sale of the stock herein authorized to be issued for additions and betterments to its properties, it shall only so use the proceeds from said stock after it shall have submitted a detailed list of said proposed additions and betterments to its properties to the Commission and shall have received a supplemental order from the Commission approving such use.

5. Applicant shall issue and sell $1,500,000.00 of the bonds herein authorized to be issued only after it shall have obtained a supplemental order from this Commission stating that it has complied with all of the conditions necessary for the issue of said $1,500,000.00 of bonds.

6. Applicant shall sell the bonds herein authorized to be issued at not less than 85 per cent of their par value plus accrued interest.

7. Applicant shall apply the proceeds from the sale of the bonds herein authorized to be issued either upon its floating indebtedness as filed by the applicant herein as Exhibit "A," in connection with the application herein, or it shall apply said moneys upon additions and betterments to its properties.

8. If the applicant determines to use the proceeds from the sale of the bonds herein authorized to be issued for additions and betterments to its properties, it shall only so use the proceeds from said bonds after it shall have submitted a detailed list of said proposed additions and betterments to its properties to the Commission and shall have received a supplemental order from the Commission approving such use.

9. Applicant shall only issue the bonds herein authorized to be issued when it shall have complied with the provisions of its mortgage and deed of trust, being the mortgage and deed of trust of Pacific Light and Power Corporation to United States Mortgage and Trust Company, dated November 20, 1911, a copy of which has been filed with this Commission in connection with the application herein, to which reference is hereby made.

10. Said company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of said stock, and said bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposal of such stock and such bonds during the preceding month, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys or property.

11. This order shall not become effective until the fee prescribed by

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section 57 of the Public Utilities Act, as amended, shall have been paid.

12. The authority hereby granted to issue stock and bonds shall apply only to stock and bonds issued by said company on or before the 30th day of June, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of September, 1914.

DECISION NO. 1813.

MRS. J. N. HOFFMAN ET AL.

vs.

W. E. HUGHES, OWNER OF OLIVITE WATER COMPANY.

Case No. 656.

Decided September 21, 1914.

Complainants allege that the service of respondent water company is exceedingly poor and uncertain. Respondent contending that as his company furnishes water at cost, it is not a utility subject to the jurisdiction of this Commission.

Held, That the term used in the Public Utilities Act, "companies operating a water system for compensation," does not merely intend "compensation" to include "profit" that companies serving water for compensation, at a profit, at a loss, or to cover operating expenses only, are public utilities subject to the jurisdiction of the Commission.

Held, That respondent has been making diligent efforts to improve the service and has succeeded considerably during the last few weeks, complaint therefor dismissed without prejudice to its renewal should improvements prove unsatisfactory.

Walter Gould Lincoln, for Complainants.

Frank D. McClure and *Minor Moore*, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This complaint was brought by Mrs. J. N. Hoffman and twenty-eight others residing in Olivite Heights, a subdivision adjoining the city of Los Angeles on the south, alleging that poor service is being furnished by the water system owned by W. E. Hughes.

The defendant in this action, Mr. W. E. Hughes, was the owner of the subdivision which is supplied with water by a well and pipe system which he constructed. The subdivision was put on the market some six or seven years ago, and the equipment for supplying water has been changed in several particulars since its inception.

Defendant claims he is not a public utility because water is being delivered to consumers at cost or less than cost.

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There is in evidence a clause contained in a deed given by Hughes to purchasers of land to the following effect:

> "The said party of the second part, his heirs and assigns of the above described land shall at all times be entitled to secure water from the pumping plant and well on said tract upon payment of his proportional share of the actual cost of operation and maintenance of said plant, and said party of the second part agrees for himself and his heirs and assigns forever not to divert or cause to be diverted any water from the said Olivite Heights plant."

The definition contained in the Public Utilities Act is as follows:

> "The term 'water corporation' when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water system for compensation within this state."

In effect the argument is made that the terms "compensation" and "profit" are synonymous, and that because Mr. Hughes is selling his water at the cost of production, that he is not receiving compensation. Obviously, this argument if successfully maintained would sweep out from the jurisdiction of the Commission all public utility properties on which no profit was being made, or which were incurring losses. I believe the word "compensation" in the act has a very much broader meaning, and, in effect, means charge. This being true, Hughes is making a charge for the service rendered although this charge may be only equal to the cost of rendering service.

I am satisfied that Mr. Hughes is a public utility operating a water system.

During March of this year, the well furnishing water to this system sanded up and was in such poor condition that the pump was unable to work. After the well was cleaned out it was decided that it would not be wise to install the plunger pump again, so a verbal contract was entered into between W. E. Hughes and Frank S. Livingston, whereby the latter was to install a new pump operated by compressed air. Mechanical difficulties have been encountered in the installation of the new pump by Mr. Livingston due to many causes. The well is not straight and the perforations have been made so generously in the casing that sand and gravel have continuously entered the well and made it difficult to secure water.

Defendant acknowledged that there has been considerable shortage of water this summer. All parties, however, have agreed that the conditions for the last two weeks, with the exception of a shut down for the installation of two valves in the distributing system, were so materially better as to be considered as good as the service formerly accorded.

There was a difference of opinion among the consumers expressed at the hearing in this case as to the probability of the consumers taking

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over the system from Mr. Hughes, subject to the debt incurred for the present pumping equipment now installed. Mr. Hughes' representatives made the offer, but many of the consumers objected to paying for the new pump.

I find that the installation of the new pump required several months, and confidence was lost by the consumers as to its ultimate success, leaving them now in the belief that the pump is a failure.

An investigation of the situation was made by one of our hydraulic engineers and an installation of two valves recommended which were later installed by defendant in order to afford some better control of the water. Our engineer found that defendant was making reasonable effort to rehabilitate the system.

Time and experience may prove that another well will have to be built, but this would cost a considerable sum and in view of the present service being rendered, I think that the new pump should be given a trial over a reasonable period before a final conclusion is reached as to its efficiency.

I therefore recommend that this complaint be dismissed without prejudice to the filing of another complaint hereafter if the service rendered by defendant does not prove reasonable.

I submit herewith the following form of order:

ORDER.

Complaint having been made by Mrs. J. N. Hoffman et al. *vs.* W. E. Hughes, and a public hearing having been had, and it appearing to the Commission that this complaint should be dismissed for the reasons set out in the foregoing opinion,

It is hereby ordered, by the Railroad Commission of the State of California, that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of September, 1914.

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DECISION NO. 1814.

GEO. H. MARSH ET AL.

vs.

N. C. KELLEY, A WATER COMPANY.

Case No. 647.

Decided September 21, 1914.

Complainants allege that the service of respondent is exceedingly poor owing to his inability to obtain a sufficient amount of water and the evidence submitted being insufficient to warrant a conclusion as to the best method of increasing the present supply, respondent given sixty days in which to submit a plan for the Commission's approval, whereby he can produce a more adequate water supply.

R. C. Sternberg, for Complainants.

N. C. Kelley, in propria persona.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

The complainants in this case allege that N. C. Kelley, owner of a water system in North Glendale, is not providing adequate service to complainants and that through lack of pressure the fire hazard was increasing.

Mr. N. C. Kelley has placed upon the market two pieces of real estate in North Glendale, known as Casa Verdugo Tract and Tract 726, comprising fifty acres and twenty acres, respectively. When marketing these lots, the defendant installed a water system. He obtained water from the North Glendale Pipe and Reservoir Company, according as the number of shares which he owned, and also rented, bore to the total number issued. Out of the original 10,000 shares in the water of Verdugo Canyon, apportioned to the land in and around Glendale, defendant owns 151 shares and rents 36½ shares, the latter of which are subject to withdrawal from his control at any time.

During the last few summers, which have been seasons of low rainfall, the service through the Kelley system has been admittedly poor. Although this season was one of good rainfall, the adoption of a rigid schedule worked to the disadvantage of defendant. Defendant has ample storage facilities and the system is a metered one, but the suspended matter in the water has affected the successful operation of some of the meters and complaint was made in that regard.

Defendant stated that out of a possible 125 service connections, only 75 were actually revenue producing at the present time and that he was feeling the shortage in the income.

One of the Commission's engineers has made an investigation of the entire system and has reported that Mr. Kelley may not be able to

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acquire any more shares of the flow in Verdugo Canyon. On the other hand, judging by the water secured in a well adjoining Tract No. 726, it may be that water may be developed by Mr. Kelley through sinking a well.

The evidence in this case is not sufficient to warrant a conclusion at this time as to which is the better method of producing more water for this system.

Therefore, I recommend that Mr. Kelley be ordered to submit to the Commission, within sixty days from the date hereof, a plan for providing a more adequate water supply for this system.

I submit herewith the following form of order:

ORDER.

Complaint having been made by Geo. H. Marsh et al. against the service rendered by N. C. Kelley, operating a water system in North Glendale, and a public hearing having been had thereon, and the matter having been submitted, and the Commission being fully apprised in the premises,

It is hereby ordered, by the Railroad Commission of the State of California, that N. C. Kelley, operating a water system in North Glendale, submit to this Commission, within sixty days from the date of this order, a plan for producing and maintaining a more adequate water supply for the use of his consumers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of September, 1914.

DECISION NO. 1815.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-WESTERN RAILROAD AND NAVIGATION COMPANY AND UNION LUMBER COMPANY FOR AN ORDER AUTHORIZING THE SALE OF A PORTION OF THE PROPERTY OF THE FORMER COMPANY TO THE LATTER COMPANY.

Application No. 1325.

Decided September 21, 1914.

Applicants propose to transfer certain properties between themselves whereby the lumber company will obtain a fifty-year lease to a certain wharf and moorings owned by the railroad company at Fort Bragg, together with title to certain real property in exchange for certain right of way, trackage, yard and roundhouse property now used by the railroad company, though at present title to which rests with the lumber company. Application granted, provided that form

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of deeds conveying property to the railroad company be first approved by the Commission and also that the Commission reserves the right to at all times investigate rates or services affecting the wharf, title to which is transferred to the lumber company.

Charles A. Strong, for Applicants.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application by California-Western Railroad and Navigation Company for an order authorizing the sale of certain real estate in Fort Bragg to Union Lumber Company and the lease to Union Lumber Company of the right to use, in so far as necessary for its purposes, the railroad company's wharf at Fort Bragg.

California-Western Railroad and Navigation Company was incorporated on July 1, 1905, for the purpose of constructing a line of railroad between Fort Bragg and Willits, in Mendocino County. This line of railroad has been completed and is now in operation. The capital stock of the railroad company has been owned from the first by Union Lumber Company, which company has a sawmill and extensive yards at Fort Bragg and built the railroad primarily to assist it in the development of its lumber business.

These two companies now find it desirable to make certain segregations of their property interests, as I shall now proceed to point out.

The wharf in Fort Bragg harbor belongs to the railroad company and is operated as a public utility. More than 70 per cent of the freight shipped over the wharf consists of the output of the Union Lumber Company, and of supplies and materials purchased by this company. Union Lumber Company desires to make improvements in the wharf and to do certain dredging in the bay, but naturally does not desire to incur these expenditures on the property of someone else, unless the lumber company is assured of a long term right to use the wharf in connection with its business. The railroad company is unable to make the necessary improvements and its pecuniary interest in such improvements is far less than that of the lumber company. Accordingly, it is now proposed that the railroad company shall convey to the lumber company for a period of fifty years, the right to use the wharf and moorings at Fort Bragg in the conduct of its business; that the railroad company is to continue the operation of the wharf as a public utility, but that the actual handling of freight and material on the wharf will be done by the lumber company, which is to be paid the actual cost of the service; and that the lumber company is to make such repairs and improvements in the wharf, moorings and harbor as it may consider advisable and necessary, and that the railroad company is to pay to the lumber company such proportion of the cost of repairs and improvements as the shipments over the line of the railroad company bear to the

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total shipments over the wharf. The lumber company is interested in maintaining the wharf and harbor in good condition, so as to reduce and keep down sea freight charges.

The parties desire also to make certain changes in real estate ownerships. The railroad company desires to convey to the lumber company certain parcels of land, which are more particularly described in draft of deed which is attached to the petition herein and marked "Exhibit A." That portion of this property which is marked in red on the map which accompanies the petition herein, and is marked "Exhibit B," is now used for piling lumber of Glen Blair Redwood Company, in accordance with contract dated February 6, 1905, between Glen Blair Redwood Company and Union Lumber Company. While the railroad company has certain tracks over this property, these tracks are not used by the railroad company, for the reason that the grade is too steep and the curvature too great. As this property is not really used and useful in the railroad company's business, but is used primarily for storing lumber, it is now proposed to have the railroad company convey the same to the lumber company. As part of the agreement, it is understood that the lumber company will grant to the railroad company the use of a track belonging to the lumber company and running from the depot grounds to the wharf. Although such track has been operated by the railroad company, it has not had title thereto and is at present in the position of not owning any feasible route to its wharf.

The portion of the property to be conveyed by the railroad company which is marked in blue on Exhibit "B" constitutes a part of the railroad company's right of way to Noyo Chute. While the railroad company owns a right of way part way to Noyo Chute, the lumber company has title to that portion of the right of way which is nearest to Noyo Chute, so that the railroad company owns part of the right of way and the lumber company the right of way for the remaining distance. It is now proposed to convey the fee of the railroad company's property to the lumber company, and to have the lumber company convey to the railroad company the necessary right of way the entire distance from the depot grounds to Noyo Chute.

That portion of the property to be conveyed by the railroad company to the lumber company which is marked in green on Exhibit "B" includes the roundhouse, station, repair shops, and terminal yards of the railroad company. This property was originally conveyed by the lumber company to the railroad company, but such errors in the description were made that it is now proposed to include this property with the other adjacent property which is to be conveyed by the railroad company to the lumber company, and the lumber company is then to reconvey this property, by deed containing the accurate descriptions, to the railroad company.

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The lumber company proposes to pay to the railroad company for the real property which it is to receive, and for the right to use the wharf, as aforesaid, the sum of fifty thousand dollars, and also to enter into the agreements and make the conveyances on its part which have hereinbefore been referred to. This price has been agreed upon between the parties as being fair. While the two companies are controlled by the same men, so that it is difficult to deal with one another at arm's length, this sum has been agreed upon between them in good faith as being fair. It is at present impossible for me to say that this sum represents an adequate consideration for the use of the wharf for fifty years. This Commission must, of course, see to it that no discrimination exists in the rates paid for the use of the wharf as between the Union Lumber Company and other patrons, and the Union Lumber Company does not, itself, desire that any such discrimination shall exist. While I shall recommend that the application be granted, it will be on the understanding that the Commission reserves the right, which it would have in any event, to examine at any time more closely into the question of the rates or rentals charged for the use of the wharf.

I am of the opinion that the transactions which I have indicated are being entered into in good faith for the purpose of making the proper segregations between the property interests of the railroad company and the lumber company and of straightening out existing difficulties in descriptions, and recommend that the application be granted. The order, however, should contain a condition to the effect that the railroad company's conveyance of real estate to the lumber company, and its agreement with reference to the use of the wharf, should become effective only concurrently with the delivery by the lumber company to the railroad company of a deed or deeds carrying out the lumber company's part of the agreement. This condition, of course, is inserted for the purpose of preventing the possibility that the railroad company might find itself in the position of having conveyed its property without having received a satisfactory conveyance of the property which is to be deeded to it by the lumber company. While this Commission's authority is not necessary for the conveyance of property by the lumber company, this company not being a public utility, the Commission is interested in seeing to it that the railroad company's rights are protected, so that it may continue to be in a position to serve the public efficiently.

I submit herewith the following form of order:

ORDER.

California-Western Railroad and Navigation Company having applied for an order authorizing the conveyance to Union Lumber Company of certain real property in Mendocino County, California, more particularly described in draft of deed which is attached to the

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petition herein and marked "Exhibit A," and also authorizing the conveyance to Union Lumber Company of the right for a period of fifty years to the use of the wharf and moorings at Fort Bragg by Union Lumber Company, in so far as necessary in the conduct of its own business, and Union Lumber Company having joined in such application, and a public hearing having been held,

It is hereby ordered that said application be and the same is hereby granted, on the following conditions and not otherwise, to wit:

1. Before the agreement with reference to the wharf is executed and the conveyance of the real property made, California-Western Railroad and Navigation Company shall first have presented to the Railroad Commission a form of deed from Union Lumber Company and shall have secured from the Railroad Commission a supplemental order approving the same, this deed to convey to California Western Railroad and Navigation Company—

(*a*) An easement for the use of such track or tracks as may be necessary and convenient in the conduct of the railroad company's business between the company's terminal grounds and the wharf in Fort Bragg harbor, to the end that the railroad company may secure an unincumbered title to the necessary connecting link between its terminal grounds and its wharf;

(*b*) The necessary right of way for such track or tracks as may be necessary to give to the railroad company adequate means of communication between its terminal grounds in Fort Bragg and Noyo Chute;

(*c*) The unincumbered fee by proper descriptions, of the property used by the railroad company for roundhouse, station, repair shops and terminal yards at Fort Bragg.

2. The agreement with reference to the use of the wharf should be substantially in the terms outlined in the petition herein.

3. The wharf at Fort Bragg shall continue to be operated as a public utility, with the same rights therein in behalf of the public as now exist, and the Railroad Commission reserves the right, notwithstanding any agreement between the parties hereto, to investigate at any and all times the rates, rentals and service in connection with said wharf.

4. After execution, a certified copy of each deed and agreement referred to herein shall be filed with the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of September, 1914.

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Decision No. 1816.

IN THE MATTER OF THE INVESTIGATION ON COMMISSION'S OWN MOTION OF RULES, REGULATIONS, AND PRACTICES OF THE PULLMAN COMPANY.

Case No. 462.

Decided September 23, 1914.

Report of the Commission.

ORDER DISMISSING COMPLAINT.

Several hearings have been held in the above entitled case and many of the things complained against satisfied. It appears that the Commission cannot proceed further under its jurisdiction to remedy further complaints hereunder, and all the rates of this company applying to the State of California having been called in question, in which proceeding the entire business of this company will be investigated, it could serve no good purpose to keep this case longer pending, and it is therefore dismissed.

Dated at San Francisco, California, this 23d day of September, 1914.

Decision No. 1817.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA VALLEY RAILROAD COMPANY FOR AN ORDER EXEMPTING IT FROM COMPLYING WITH THE PROVISIONS OF CHAPTER 284, STATUTES OF CALIFORNIA, 1913, ENTITLED "AN ACT REGULATING HEADLIGHTS ON ALL LOCOMOTIVES AND PROVIDING A PENALTY FOR VIOLATIONS OF THE PROVISIONS OF THIS ACT."

Application No. 1290.

Decided September 22, 1914.

Application of the Santa Maria Valley Railroad Company to be relieved from complying with the provisions of the headlight law, considering that both of the trains operated by said road are run entirely, with the exception of rare occasions, between sunrise and sunset, granted.

C. L. Preisker, for Applicant.

Report of the Commission.

Loveland, *Commissioner.*

This application came on regularly for hearing and the testimony of applicant, Santa Maria Valley Railroad Company, showed that applicant is a corporation duly organized and existing under and by virtue of the laws of the State of California and is engaged in the operation of a line of railway extending from Guadaloupe, in the county of Santa

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Barbara, State of California, to Roadamite, in the county of Santa Barbara, State of California, with a branch line to Betteravia, in said county and state.

That the length of said railroad is 24.3 miles; that it runs through a farming district sparsely settled except where said railway passes through the city of Santa Maria, and that in passing through said city the line is through the outskirts of said city, which has a population of approximately 2,500 people.

That applicant's operation of said road never exceeds one train a day each way and said trains are operated exclusively between sunrise and sunset, except in rare instances, when the train crew is unable to finish the day's work before sunset, which the testimony showed occurred not oftener than once in three months. That applicant has no regular train schedule and carries no passengers; that the maximum speed of the trains operated by applicant is fifteen miles an hour, and in many parts of the road as low as six to eight miles per hour; that the trains consist of ten to fifteen cars equipped with standard equipment and air brake, and can be stopped at any place on the line within a distance of one hundred feet; that the engines of applicant are equipped with first-class United States Headlight Company headlights, the reflectors of which are nineteen inches in diameter and nine inches deep, using acetylene gas, and that the light projecting from such headlights enables the locomotive engineer to observe clearly a dark object, the average size of a man, on a dark, clear night for a distance of 350 to 400 feet, while the train is running at fifteen miles per hour.

That the operation of said road is fairly comparable to an extended switching service and does not reasonably require compliance with the provisions of chapter 284, Statutes of California, session of 1913.

Mr. W. J. Handford, service expert for the Railroad Commission of California, testified that in his opinion an exception in the case of applicant could reasonably be made; that he regarded applicant's present equipment as sufficient for the operation of applicant's road and that in his judgment applicant should not be required to comply with the provisions of chapter 284, Statutes of California, session of 1913, for the reason above stated, and for the further reason that the operation of the road is entirely in daylight except in rare instances and that the service might be regarded as an extended switching service.

Mr. John Finley, chairman of the Brotherhood of Locomotive Engineers, was present at the hearing and assured the Commission that the petition of applicant to be relieved from the operation of chapter 284, above referred to, was a reasonable one and should be granted.

I find, therefore, that the operation of applicant, Santa Maria Valley Railroad Company, is such as to justify the Commission in relieving

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applicant from complying with the provisions of chapter 284, session of 1913, and submit the following order:

ORDER.

Whereas, the Santa Maria Valley Railroad Company, a corporation operating a railroad from Guadaloupe, in the county of Santa Barbara, State of California, to Roadamite, in said county, with a branch line to Betteravia, also in said county, has applied to this Commission to be relieved from the necessity of equipping its locomotives with headlights as provided in chapter 284, Statutes of California, session of 1913, entitled "An act regulating headlights on all locomotives and providing a penalty for violation of the provisions of this act"; and

Whereas, the testimony as set forth in the opinion preceding this order shows that the application should be granted,

It is hereby ordered that applicant, Santa Maria Valley Railroad Company, be and it is hereby relieved from the operation of chapter 284, Statutes of California, session of 1913, with permission to continue its operation with its present equipment.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of September, 1914.

DECISION NO. 1818.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY FOR AUTHORITY TO INCREASE ITS MONTHLY COMMUTATION FARES PROVIDED FOR PARTIES OR ASSOCIATIONS OF ONE HUNDRED OR MORE INDIVIDUALS BETWEEN NAPA AND VALLEJO.

Application No. 1227.

Decided September 23, 1914.

Applicant, contending that its present monthly commutation rate of $5.00 applicable to parties or associations of one hundred individuals or more, between Napa and Vallejo, is insufficient to pay its proper proportion of expenses, petitions the Commission for permission to increase such commutation rate to $6.00 per month.

Held, That the method used by applicant of applying a car-mile basis to all items of expenditure irrespective of the relationship of the expense to the particular trains, the operating expense of which it is desired to determine, permits of such a number of inaccuracies as to make it impossible to reach a conclusion that the increase applied for has been justified; also in view of the fact that applicant agreed to place in effect such a rate, provided that 125 commuters were secured, and that the chamber of commerce of Napa paid the deficit until the required number purchased commutation books, application denied without prejudice. Suggestions made whereby applicant may effect economies by discontinuing a Sunday morning train and consolidating two of its daily trains running under a few-minute headway, without inconveniencing its passengers.

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John T. York, for Applicant.

C. Fritschaw, H. C. Wood and *J. N. F. Bischoff*, for Commuters' Association.

H. L. Johnson and *Ben Blow*, for Napa Chamber of Commerce.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

San Francisco, Napa and Calistoga Railway asks authority to increase from $5.00 to $6.00 its monthly commutation fare in effect between Napa and Vallejo for parties or associations of one hundred or more individuals, and to provide for sales to individual persons. The tickets now sold at the $5.00 fare are not good for transportation on the so-called limited trains of the applicant and are used largely on the so-called commuters' train, which leaves Napa limits as train No. 1 at 6:34 a. m. and arrives at Vallejo at 7:26 a. m., and returning as train No. 24 leaves Vallejo at 5:24 p. m. and arrives at Napa limits at 6:17 p. m. It is not petitioner's intention to eliminate this restriction.

In justification of the proposed change, petitioner alleges that the present fare was established at the solicitation of the Napa chamber of commerce in the expectation that a sufficient number of the employees of Mare Island Navy Yard would be induced thereby to locate and reside at Napa, and to travel between that point and Vallejo via petitioner's line, to make the fare profitable. Petitioner contends that the fare is unremunerative and asks that a fare of $6.00 be established for this service.

Petitioner alleges that the following statement for the year ending June 30, 1914, of the estimated revenues and expenses of the commuter trains indicates the unprofitableness of the $5.00 fare.

Operating and maintenance expense chargeable to trains Nos. 1 and 24	$6,993 40
Taxes chargeable to trains Nos. 1 and 24	330 00
Depreciation of equipment (rolling stock only) chargeable to trains Nos. 1 and 24	733 90
Interest on investment in equipment chargeable to trains Nos. 1 and 24	639 00
Interest on investment in ways and structures chargeable to trains Nos. 1 and 24	3,757 50
Total expense charged to trains Nos. 1 and 24	$12,453 80
Revenue from operating trains Nos. 1 and 24	6,046 50
Deficit	$6,407 30

The expense figures are allocated proportions of the total amounts of the several items. Manifestly their accuracy depends upon the basis employed for segregating the respective items. An analysis of the apportionment is accordingly necessary to determine their approximate correctness. Petitioner uses the car mile basis throughout. An expla-

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nation of how this basis is determined is properly preliminary to such an analysis.

Distance, Napa car barn to Napa limits	1.73	miles
Distance, Napa limits to Vallejo	16.12	miles
Single trip each day	17.85	miles
Round trip each day	35.70	miles
Round trip 365 days	13,030.50	miles
Round trip 365 days, with two cars	26,061.00	car miles
Less single trip on Sundays, two cars	1,856.40	car miles
Total car mileage trains Nos. 1 and 24, per annum	24,204.60	car miles

The deduction is made for Sundays for the reason that on that day the commuters' train is operated as such southbound only. The total car miles of the San Francisco, Napa and Calistoga Railway for the year ending June 30, 1914, according to the annual report of that company for the year ending June 30, 1914, on file with the Commission, is 467,409 miles; therefore, the car miles of trains Nos. 1 and 24 represent 5.18 per cent of the total car miles of the system.

However, it appears from the evidence that the car miles charged against trains Nos. 1 and 24 are incorrect. The petitioner in computing this car mileage has deducted 1,856.4 car miles from the total car miles of these two trains for the reason that the commuters' train is operated as such southbound only on Sunday. It appears, however, from the record that this is insufficient, as the general manager of the company testified that *one car only* is operated on Sunday in the commuters' train, this car running southbound only. Hence, instead of deducting 1,856.4 car miles for Sunday on account of the partial annulment of these trains on that day, 2,784.6 car miles should be deducted. The result would be that instead of the total car mileage of trains 1 and 24 being 24,204.6 miles it would be 23,276.4 car miles, which is but 4.98 per cent of the total car miles of the system.

To ascertain the proportion of the operating and maintenance expenses attributable to this train, petitioner took the total maintenance and operating expense, exclusive of payments on account of injury and damages and repairs occasioned by the wreck of June 19, 1913, and also exclusive of depreciation of equipment for the year ending June 30, 1914. This sum, amounting to $135,049.66, was then apportioned between these commuters' trains and the other trains of the San Francisco, Napa and Calistoga Railway, on the car-mile basis, as heretofore shown.

In my opinion, this basis, applied indiscriminately to all the operating expenses, is improper. It seems plain that the commuter trains engaged wholly in the passenger service should not bear a proportion of the cost of repairing freight equipment or locomotives which are not in any respect connected with that service, nor should these trains bear a proportion of the cost of repairing other passenger equipment which is not

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used in that service, or otherwise stand any part of an expense from which it does not derive some benefit or which is not in some degree connected with the use of these particular trains. These illustrations serve in a general way to illustrate the fallacy of attempting to segregate all the expenses of operation and maintenance on a car-mile basis, for the purpose of determining the cost of operating any particular train or trains. Some items of expense may properly be segregated on a car-mile basis, but there are other items of expense which cannot be divided on any such theory.

The petitioner has determined the amount of taxes chargeable to these trains by taking a percentage of the total amount received from the sale of the $5.00 commutation tickets. It has found from its records that during the year ending June 30, 1914, $6,950.00 was realized from the sale of these commutation books. Applying to this amount the tax per cent of 4¾ which the petitioner alleges is its rate, it ascertains that the proportion of taxes chargeable to these trains is $330.00 per annum. However, the witness for the petitioner testified that the gross earnings of these trains for the year ending June 30, 1914, was approximately but $6,046.50, or approximately 87 per cent of the gross amount realized from the sale of the $5.00 Napa-Vallejo commutation book. If this is correct, it is manifestly improper to charge these trains with the percentage of the gross sales of the $5.00 commutation tickets when such an amount exceeds by approximately 13 per cent the revenue from the operation of the train to which the taxes are chargeable.

The depreciation charged to these trains by the petitioner was determined by allowing 6 per cent of the total investment in equipment as a gross annual depreciation charge for the entire system. This amount was then divided between the commuter trains and other trains on the car-mile basis heretofore shown. That the figures thus obtained do not reflect the depreciation on the rolling stock used in trains Nos. 1 and 24 becomes apparent upon a slight examination. In the first place, the petitioner has indicated the depreciation of the system on the total investment of the carrier in rolling stock. This is obviously improper, for the reason that some of this rolling stock has been destroyed in wrecks, notably in the wreck of June 19, 1913, and the value of such demolished rolling stock, less insurance or any depreciation fund, should be charged to profit and loss and the capital account credited to that extent, and thereafter depreciation for the system calculated on the original investment less such reductions. In this particular case it is, in my opinion, improper to calculate the depreciation on the cars used in trains Nos. 1 and 24 by apportioning the total depreciation on the car-mile basis, as has been done. The petitioner is aware of the value of the equipment used on trains Nos. 1 and 24 and what proportion of the service of these

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facilities is devoted to the operation of trains Nos. 1 and 24, and having this it is not difficult to determine the depreciation properly chargeable to trains Nos. 1 and 24 on this rolling stock. The value of the rolling stock used in trains Nos. 1 and 24, in accordance with the testimony of a witness for the applicant, approximates $25,000.00, of which amount $17,000.00 is fixed as the value of the motor car and $8,000.00 as the value of the trailer. However, this witness explained that the full value of this equipment should not be charged to trains Nos. 1 and 24 for the reason that the motor was engaged in this service but one quarter of the time of its total service, while the trailer was engaged in this service but four fifths of the time of its total service, and therefore but one quarter of the value of the motor car and four fifths of the value of the trailer should be charged to trains Nos. 1 and 24 for the purpose of determining the value of the rolling stock used in operating these trains. The value thus obtained would approximate $10,000.00, yet the applicant has charged against the rolling stock used in these trains $733.90 for depreciation, which represents 6 per cent on an amount of approximately $12,000.00, or 20 per cent more than the applicant testified was the proportionate value of the rolling stock used in the trains. Again, the annual report of the applicant for the fiscal year ending June 30, 1914, indicates that depreciation of rolling stock is charged on the books of that company at the rate of 5 per cent per annum, while in the special showing made to prove the unprofitableness of the $5.00 monthly commutation fare the carrier contended that 6 per cent should be allowed for depreciation of equipment.

The interest on the investment in equipment used in these commuter trains was ascertained by allowing 6 per cent on the proportion of the value of the cars used in this service. The interest on the investment in ways and structures charged to these commuter trains was ascertained by allowing 6 per cent interest on the original cost of the road for a gross interest charge and dividing that amount on the car-mileage basis heretofore shown between the commuter trains and the other trains of the applicant. The witness testified that the original cost of road represented the actual expenditures for way and structures.

The gross revenue from operation is an estimate based upon the actual revenue of trains Nos. 1 and 24 for the first fifteen days of August, 1914, during which time a record of the travel on these trains on cash fares and commutation books was kept, and from this record it was estimated by the applicant that the revenue during that month from passengers traveling on trains Nos. 1 and 24 on commutation books was $424.32 and that the revenue from passengers paying cash fares was $155.55, aggregating $574.87 from both sources. This amount, the witness stated, equals 87 per cent of the amount realized by the company from the sale

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of $5.00 commutation books during August, and hence the witness concluded that the yearly receipts from the operation of these trains would approximate 87 per cent of $6,950.00, the amount realized from the sale of $5.00 monthly commutation books during the year ending June 30, 1914, or $6,046.50. In the estimated revenue for the month of August, which serves as a basis for determining the estimated annual revenue from the operation of trains 1 and 24, no credit was given these trains for any collection from passengers traveling on through fares to or from San Francisco via these particular trains, nor was any revenue from the express business credited thereto. Representatives of the commuters between Napa and Vallejo contend that the estimate of the revenue received from operating trains Nos. 1 and 24 is incorrect, that the number of passengers traveling on cash fares is in excess of the number estimated by the petitioner, and that many passengers travel by these trains between San Francisco and points located between Napa and Vallejo, and that these trains should be credited with the San Francisco, Napa and Calistoga Railway Company's proportion of the through fares charged such passengers.

Petitioner distinctly stated that it would be satisfied with a gross revenue sufficient to pay operating expenses, taxes and depreciation, and that it does not expect nor desire to earn sufficient from these trains to pay all the charges which it considers properly attributable to these commuter trains, feeling that it can well forego the additional revenue necessary to pay the interest on the investment, in consideration of the traffic brought to the line by reason of the fact that the particular parties traveling on these commutation tickets have located thereon.

In view of the many inaccuracies in the showing made by petitioner and the obvious incorrectness in applying a car-mile basis to all items of expenditure, regardless of the relationship of the expense to the trains, the operating expense of which it is desired to determine, I find it impossible to reach any other conclusion than that petitioner has failed to make such a showing as to justify the increase asked for.

The petitioner also contends that on a comparative basis the Napa-Vallejo monthly commutation fare is shown to be unreasonably low and states that while this fare approximates but 5.1 mills per mile, the fare of the Central California Traction Company for a similar service between Stockton and Lodi approximates 8.9 mills per mile, while the fare on the Oakland, Antioch and Eastern Railway between Oakland and Lafayette is approximately 6 mills per passenger mile and between Oakland and Burton on the same line the fare is approximately 6.5 mills per mile. There was, however, no conclusive evidence as to the conditions surrounding the operation of these fares, and in the absence of such their value as a measure for fares elsewhere or on the line of the San Francisco, Napa and Calistoga Railway is of no weight.

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It must also be borne in mind that the railway company agreed with the chamber of commerce of Napa and with the commuters that it would establish the $5.00 rate in case as many as 125 tickets of this character were sold each month; that the Napa chamber of commerce paid the deficit the first few months; that through the joint efforts of the chamber of commerce and the commuters' association the number of commuters was brought up to 125, and that it has been kept at that point subsequently; and that the chamber of commerce and commuters have lived up entirely to their agreement. In view of this fact it does not seem equitable for the railway company now to seek to avoid its agreement. Attention should also be drawn to the fact that if this commutation rate is raised there is a possibility that a number of the commuters will move to Vallejo and thus deprive the railway company, not merely of the revenue resulting from the sale of commutation books, but also of the revenue from the additional traffic which results from the fact that these commuters live in Napa and their families at times travel over the railway company's line.

I am of the opinion on all the facts of this case that petitioner has failed to sustain the burden placed upon it by the Public Utilities Act to justify the increases in the fares which it seeks to make, and I shall, therefore, recommend that the application be denied without prejudice.

It was suggested at the hearing by the representatives of the Napa and Vallejo commuters that a consolidation of the train service would go far toward bringing about certain economies which would offset any deficit which the carrier contends it now suffers by reason of the operation of trains Nos. 1 and 24. It was suggested, for instance, that the Sunday morning commuters' train could be discontinued entirely, as there was no use for such a train. From the time tables of San Francisco, Napa and Calistoga Railway on file with this Commission it appears that southbound trains Nos. 1 and 3 and northbound trains Nos. 22 and 24, between which there is a headway of fourteen minutes and twenty-seven minutes respectively, offer some opportunity for a con-

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solidation of service and resulting economies. The time schedules of these trains are as follows:

	Southbound		Northbound	
	Train No. 1. Leave	Train No. 3. Leave	Train No. 22. Arrive	Train No. 24. Arrive
Limits	s 6:34 a. m.	s 6:48 a. m.	f 5:54 p. m.	s 6:17 p. m
Third and Jefferson	s 6:39	f 6:53	f 5:49	f 6:12
Napa	s 6:46	s 7:00	s 5:42	s 6:05
State hospital	s 6:50	s 7:03	s 5:38	f 6:00
Soscal	f 6:55	7:06	5:35	f 5:55
Kelley	f 7:00	7:09	5:31	f 5:50
Napa Junction	f 7:04	f 7:13	f 5:27	f 5:45
Collins	f 7:09	7:15	5:24	f 5:41
Flosden	f 7:12	7:17	5:22	f 5:38
Hatch	f 7:17	7:20	5:19	f 5:33
Vallejo	s 7:26	s 7:29	s 5:10	s 5:24

No. 1—5 stops and 6 flags. No. 22—3 stops and 3 flags.
No. 3—4 stops and 2 flags. No. 24—3 stops and 8 flags.

If trains Nos. 1 and 3 were consolidated, the consolidated trains would have to make one regular stop at Third and Jefferson streets, Napa, and five flag stops which train No. 3 does not now make, and if trains Nos. 22 and 24 were consolidated the consolidated train would have to make two stops, one at Napa limits and one at State hospital and five flag stops which train No. 24 does not now make. Petitioner states that it is impossible to consolidate these trains or even to discontinue the service of the Sunday morning southbound commuter train, but I am of the opinion that the Sunday morning southbound commuter train can be discontinued entirely and in lieu thereof train No. 3 operated as a local Sunday train between Napa limits and Vallejo to transport any such passengers as offer at Napa and who do not have transportation good on limited trains, and it may be that after more extended investigation and perhaps a trial, petitioner will find that there is some way in which southbound trains 1 and 3 and northbound trains 22 and 24 can be consolidated without impairing the service to either class of its patrons. The term limited trains, as applied to electric trains, is somewhat of a misnomer, as the term generally implies a different grade of service than that afforded on local trains, the difference being not only in the running time of the train but in the facilities offered the traveler. In this case, however, the so-called limited train has practically the same equipment as the local train, and the only difference that exists between the two is that the so-called limited train operates on a faster schedule.

In view of all of these matters, I am of the opinion that the application of San Francisco, Napa and Calistoga Railway for authority to increase the monthly commutation fare between Napa and Vallejo should be denied without prejudice, and that this fare should be maintained and

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the tariff amended so as to provide for its sale to one or more persons, inasmuch as it has been the practice in the past to disregard this restriction of the tariff.

I submit the following form of order:

ORDER.

San Francisco, Napa and Calistoga Railway having filed its application for authority to increase its monthly commutation fare of $5.00 in effect between Napa and Vallejo for parties or associations of one hundred or more individuals, to $6.00, and a public hearing having been held on said application, and the Railroad Commission finding that the showing made has not been such as to justify the increase in rates asked for,

It is hereby ordered that said application be and the same is hereby denied without prejudice, and applicant's attention is directed to the possibility of effecting economies by the discontinuance of the Sunday morning commutation train and by a possible consolidation of southbound trains Nos. 1 and 3 and northbound trains Nos. 22 and 24 on week days.

And it is further ordered that the existing commutation rate of $5.00 be made applicable to any individual, as has in effect (though not in the legal tariffs) been the case for some time.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of September, 1914.

DECISION NO. 1819.

IN THE MATTER OF THE APPLICATION OF SAUSALITO INCLINE STREET RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND OF ALLEN H. VANCE TO TRANSFER STREET RAILWAY FRANCHISE TO SAUSALITO INCLINE STREET RAILWAY COMPANY.

Application No. 1268.

Decided September 23, 1914.

Held, Allen H. Vance authorized to transfer to the Sausalito Incline Street Railway Company a franchise authorizing the construction of an incline railway over certain streets and private rights of way in the town of Sausalito, and the latter company granted a certificate of public convenience and necessity to exercise rights thereunder.

Held, Sausalito Incline Street Railway Company authorized to issue its preferred stock of the par value of $2,500.00 to Allen H. Vance in part payment for services heretofore and to be performed, and preferred or common stock of the

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par value of $15,500.00 to be sold at par for cash only, $500.00 of the proceeds thereof to be used in preparing plans of proposed incline railway, the balance for securing rights of way and terminal grounds, provided, that no money shall be expended for the latter named purposes until $6,000.00 shall have been secured and deposited.

George H. Harlan, for Applicants.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application on the part of Allen H. Vance for an order authorizing him to transfer to Sausalito Incline Street Railway Company a franchise for an incline street railway granted to Dr. Vance by the board of trustees of Sausalito, Marin County, on June 8, 1914, by Ordinance No. 235; an application on the part of Sausalito Incline Street Railway Company for a certificate that the present and future public convenience and necessity require and will require the exercise by the railway company of the rights and privileges conferred by the ordinance and construction thereunder; and an application on the part of the railway company for an order authorizing the issue of capital stock for the purposes hereinafter specified.

A public hearing was held in Sausalito on August 31, 1914. Additional engineering data which was requested by the Commission has been supplied, the Commission's engineering department has rendered a report and the application is now ready for decision.

Ordinance No. 235 of the town of Sausalito grants to Allen H. Vance, his successors or assigns, for the period of fifty years, the right to construct and operate a single or double track railroad of 4 feet 8½ inches gauge, with the necessary appurtenances, with the right to carry passengers on its cars for hire, over the following route:

Beginning on the westerly line of Water street, where the same is intersected by Excelsior lane; running thence along the southerly side of Excelsior lane to Bulkley avenue; thence crossing Bulkley avenue to a private right of way parallel, or nearly, with and extending along the northerly line of the continuation of Excelsior lane to its intersection with Harrison avenue; thence crossing Harrison avenue to the extension of Excelsior lane between Harrison avenue and San Carlos avenue, and thence running up said extension of said Excelsior lane from Harrison avenue to San Carlos avenue; thence crossing San Carlos avenue and continuing in a straight line, being a prolongation of said Excelsior lane, through block thirty-one (31) of the lands of the Sausalito Land and Ferry Company, and crossing an unnamed public street in the Pines Tract to Spencer avenue; thence crossing Spencer avenue and Prospect avenue in a straight line and continuing through block thirty-two (32) of the lands of the Sausalito Land and Ferry Company

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to Cobb avenue; thence following Cobb avenue in a southwesterly direction into the lands of H. H. Noble, where the proposed terminus of said street railroad shall be located.

The ordinance further provides in part as follows: that the proposed street railroad shall be constructed along the southerly side of Excelsior lane between Water street and Bulkley avenue and along the northerly line of Excelsior lane between Harrison avenue and San Carlos avenue; that streets and avenues shall be crossed horizontally; that cars shall be operated on a schedule to suit the arrival of all ferryboats arriving from San Francisco; that single fares for one continuous trip in one continuous direction shall not exceed five cents; that if the board of trustees condemns land to widen Excelsior lane, the owner of the franchise will reimburse the city; that the owner of the franchise shall provide suitable steps up Excelsior lane for the use of pedestrians; and that transfers shall be exchanged with the proposed electric line on Water street. The ordinance contains the usual provisions of the Broughton Act providing that the work shall commence within four months and that after five years 2 per cent of the annual gross revenue shall be paid to the town of Sausalito. Certain rights as to fares and service reserved to the town of Sausalito have now become vested in the Railroad Commission. The franchise contains other provisions to which it is not necessary here to refer.

Sausalito Incline Street Railway Company was incorporated under the laws of California on July 22, 1914, for the purpose, primarily, of taking over the franchise granted by Ordinance No. 235 and of constructing and operating an incline street railway thereunder. The authorized capital stock consists of 20,000 shares of preferred stock of the par value of $1.00 each and 30,000 shares of common stock of the par value of $1.00 each. The preferred stock is entitled to 7 per cent cumulative dividends, and will also have preference in the distribution of assets. Common stock of the par value of $6,000.00 has been subscribed for, but no stock has been issued except one share to each of five directors.

The street railway is to run from its lower terminus on Water street, opposite the depot of the Northwestern Pacific Railroad, up Excelsior lane, across public streets and over private property to Cobb avenue; thence along Cobb avenue to the property of H. H. Noble; and thence into the Noble property to the terminus, a total distance of approximately 2,800 feet. The elevation of the initial point is approximately 29 feet above sea level and the elevation of the summit is approximately 595 feet. The average grade is 20 per cent and the maximum grade is 33 per cent.

H. H. Noble has agreed to donate one acre of land for the terminus on the high lands above Sausalito, if the road is constructed within a

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reasonable time. The Sausalito Land and Ferry Company will sell for a very nominal consideration or will donate a right of way through the company's property. Certain other rights of way must be purchased and in one case possibly condemned. When the necessary real estate has been acquired by donation or the sale of stock, I see no reason why the funds for actual construction can not be successfully secured from an issue of bonds.

The railway company has presented three plans of construction: Plans 1 and 2 provide for a double track railway of the funicular type, with the two passenger cars balancing one another. Plan 3 contemplates, for the present only, a single track line with the counter weight in the form of a specially equipped flat car, operating on the opposite side of the upper terminal property over an ordinary tee rail track about 700 feet long. The adjustment for the difference in length between the passenger track of 2,800 feet and the center-weight track of 700 feet will be made by a four to one multiple sheaves counter balance mechanism. The counter-weight flat car is not intended to transport passengers, but can handle a limited amount of freight from the road below the hill.

The railway company will probably use Plan 3 at the present time, to save operating expenses. When travel increases and one car can no longer handle the passengers, the line will be double tracked and two cars will be operated. Before stock or bonds are authorized for the actual construction of the railway, the company will be required to submit definite, final plans and specifications.

The Commission's engineering department was instructed to investigate the proposed railroad from an engineering point of view, and reports that from this point of view the railroad is entirely feasible and presents no unusual difficulties. The department also reports that the estimates of cost as presented by the company are as nearly correct as they can be with the data now at hand.

The following table shows the company's estimate of the cost of the

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railway and the tentative estimate of this Commission's engineering department, on the data now available:

TABLE I.

PRELIMINARY ESTIMATE.

Single track, one car line, with counter balancing incline on opposite side of hill.

(Company's Plan No. 3.)

Item		Company's estimate	Engineering department's estimate
1. *Right of Way and Station Ground and Franchise.*			
This item does not appear in the company's estimate, for the reason that negotiations for several tracts are now under way. The amount here used is the amount shown to be necessary by the testimony. The cost of the franchise will be classed as "promoter's profit" and will be considered hereafter		$12,000 00	$12,000 00
2. *Roadway and Track.*			
2,800 track feet of roadway; grading, ballasting, macadamizing; single track; 6" x 8" x 8' redwood ties. Redwood lumber for board walk, steps, slots, etc.; 45# Tee rail and 55# Trilby rail with fastenings; channel bars and fastenings for slots	$14,120		
700 track feet of roadway and track for counter weight track on opposite side of hill, complete; (this track will be of cheaper construction than the passenger track, as no passengers will be carried on this portion of the line)	1,500	15,620 00	15,620 00
3. *Cable and Accessories.*			
Standard cable road rope, supporting sheaves, deflection and depression pulleys—complete in place	1,500		
3,000 lineal feet of 1¼" cable	500	2,000 00	2,000 00
4. *Fencing Right of Way and Restoring Steps*		400 00	400 00
5. *Lower Terminal Station, Platform, Stairway, etc*		1,200 00	1,200 00
6. *Trolley System.*			
2,850 feet of special electric trolley system for operating remote control device, which in turn operates the main electric hoisting motor; poles, brackets, wire hangers, porcelain sleeve, insulators, trolley clamps, messenger wire, rail binding; completely installed		2,000 00	2,500 00
(The company's estimate for this item appears too low. The installation will be comparatively slow and the labor cost will exceed the company's figure. I have added, more or less arbitrarily, and on the basis of the cost of work done elsewhere under more favorable conditions, 25 per cent of the company's estimate to my estimate.)			
7. *Hoisting Machinery.*			
Hoisting rig operated by G. A. C. motor with remote control device, magnetic brake, etc., as per company's plans and details, including three sheaves with shafts and box; installed		5,300 00	5,300 00

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TABLE I—Continued.

Item		Company's estimate	Engineering department's estimate
8. *Equipment.*			
One standard passenger car without motor, large enough to seat at least 32 people and about an equal number standing. This car is estimated to be purchased second-hand	$2,000		
One standard flat freight car (second-hand), to be rebuilt with superstructure and platform	1,000	$3,000 00	$3,000 00
9. *Overhead Expenses and Contingencies.*			
The company's sub-totals of items 1 to 8, inclusive, equal $41,520. To this total it adds $3,000 for "engineering and contingencies," which is but slightly in excess of 7 per cent. It will very likely develop that this amount is insufficient, and it is possible that it may have to be doubled. I shall allow:			
Engineering and law expenses, 5 per cent of items 1 to 8, inclusive	2,100		
Contingencies, 10 per cent of 1 to 8, inclusive	4,100	3,000 00	6,500 00
10. *Interest During Construction.*			
Nothing is allowed by the company for this item. Considering that the right of way is being acquired now and will have to be paid for, either in cash or securities, prior to the construction of the road, an interest period of 3 months seems fair. The rate of interest is assumed at 6 per cent. Then, 6 per cent for 3 months on items 1 to 9, inclusive ($48,520)			727 80
Grand total		$44,520 00	$49,247 80

The foregoing table does not include promoter's profit, which will be discussed hereafter. The company may decide to secure a first class car of larger capacity, but these and other changes will be taken care of in the final estimate.

The company presented at the hearing the following estimate of gross earnings per month:

TABLE II.

Estimated Monthly Gross Earnings.

200 commuters at $1.50 (5 cents round trip)	$300 00
Excursion and tourist tickets, 4,000 round trips at 10 cents each	400 00
Local traffic, 2,000 round trips at 10 cents each	200 00
Total	$900 00

While it is obviously difficult to estimate the revenue in advance, I believe that this estimate is as correct as it can now be made and is conservative. During the year ending June 30, 1914, the Mill Valley and Mount Tamalpais Scenic Railway transported an average of approximately 3,600 passengers per month. I consider it conservative to estimate that at least twice as many people (excluding the commuters)

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will spend 10 cents for the round trip on this railway as now spend $1.10 for the round trip between Mill Valley and Mount Tamalpais. The upper terminus of the proposed railway commands a magnificent view and will undoubtedly be a point of much attraction. The Commission has also considered the number of passengers traveling between San Francisco and Sausalito each month over the Northwestern Pacific Railroad Company's system. From the data at hand, I consider it entirely reasonable to expect a gross revenue of $900.00 per month from this project after it has been completed and is fairly in operation.

The company has estimated its operating expenses as follows:

TABLE III.

Estimated Operating Expenses.

Electric current at 2½ cents per kilowatt hour, with allowance for cable friction, line losses, motor generator set losses, etc	$2 00
This figure is based on 32 trips per day up grade and down grade; length of trip, .54 mile; difference in elevations, approximately 600 feet; total car miles per day, 34.56; speed, 600 feet per minute; load estimate, 200 passengers per day carried to top of hill.	
Labor of two motormen, 10 hours per day each, at $3.00 per day	6 00
These men, according to the company's estimate, are also to repair track and machinery.	
Supplies	1 00
Maintenance and depreciation at 10 per cent of $30,000	8 40
Total per day	$17 40
Total per month	522 00

Additions will have to be made of taxes and certain other items.

While I believe that these operating expenses are too low, particularly in the matter of maintenance and repairs, I am convinced that even with increased operating expenses there will be a substantial margin between the gross revenue and the operating expenses and depreciation sufficient to justify this enterprise. This conclusion is based on the assumption that a considerable portion of the funds for this enterprise will be secured from the sale of common stock at par to property owners in Sausalito who desire to assist the development of the town and to enhance the value of their holdings and who will not look forward to dividends on the stock.

At the present time the Railroad Commission's authority is only requested as follows:

1. *Transfer of franchise.*

I recommend that Allen H. Vance be authorized to transfer his franchise to Sausalito Incline Street Railway Company.

2. *Certificate of public convenience and necessity.*

I find that the town of Sausalito will be greatly benefited by the construction and operation of the proposed incline street railway and that

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public convenience and necessity require the exercise by Sausalito Incline Street Railway Company of the rights and privileges granted by Ordinance No. 235 of the town of Sausalito and construction thereunder.

3. *Issue of stock for real estate and preparation of plans.*

The company asks authority to issue at par sufficient preferred stock or common stock to purchase the real estate which will not be donated and to pay for the preparation of complete, detailed final plans. While the evidence at the hearing seemed to show that $12,000.00 might be sufficient to acquire all the necessary remaining real property, the company's attorney suggested $15,000.00, to be safe in case of eminent domain proceedings. I consider this suggestion to be reasonable. Of course no more stock will be issued for this purpose than is absolutely necessary. In this case, as in all others of like kind, the Commission desires to protect subscribers to stock in new enterprises by providing that a sufficient amount of cash shall have been paid in before expenditures of any magnitude start, so as to give a reasonable guaranty of the success of the enterprise and to prevent the possibility, of such frequent occurrence hitherto in the history of this State, of having the moneys which are paid in spent as they are paid and then be totally lost because of impossibility of completing the project. The order herein will accordingly provide that the moneys paid on stock shall be placed in a reputable bank or banks in Marin County and that no portion thereof shall be spent for the acquisition of real property until at least $6,000.00 in cash shall be so deposited. If this amount is not realized, the moneys on deposit will thereafter, under supplemental order from this Commission, be returned to the parties who paid them.

I recommend that authority be given to issue at once capital stock of the par value of $500.00 for the purpose of paying for the preparation of complete detailed final plans. I understand that public spirited citizens of Sausalito stand ready to pay for this amount of stock at once, for this purpose.

4. *Issue of stock for promoter's services and franchise.*

The railway company asks authority to issue 15,000 shares of common capital stock of the total par value of $15,000.00 to Allen H. Vance in payment for the franchise, the services which he has hitherto performed and his services to the completion of the enterprise. The franchise was granted without any payment, but a printing bill of $130.00 was paid by Dr. Vance. He has devoted much time and energy during the last two years in promoting this project and should be liberally treated. However, if he is paid in common stock, he may in effect receive little or no pay whatever. The company does not consider that his services are worth $15,000.00. The common stock is to be issued at only a

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fraction of its par value on the chance that it may later become valuable. It is to start in circulation with more water in it than real value—a condition which this Commission is constantly trying to cure and to prevent. I think it far more fair to Dr. Vance, as well as more in accordance with this Commission's constant aim, if he were paid in something which has real value and in accordance with the real value of his services. After considerable thought I recommend that Dr. Vance be paid now $2,500.00 par value of preferred stock, and that after the project is successfully launched he be paid such additional amount in common stock as may then seem fair and just to the company and the Railroad Commission. It must be remembered that the value of a promoter's services depends almost entirely on the ultimate success of the project and that his payment must be deferred either entirely or to a considerable extent until the project is successfully carried out.

I recommend to the railway company that it amend its articles of incorporation so as to eliminate the provision that with certain exceptions no change whatever can be made in the amount and kind of stock authorized unless *each* stockholder consents. This provision may later place the company at the mercy of a single stockholder, and for that reason should, in my opinion, be eliminated.

I submit the following form of order:

ORDER.

Allen H. Vance having applied to the Railroad Commission for an order authorizing the transfer to Sausalito Incline Street Railway Company of franchise granted by Ordinance No. 235 of the town of Sausalito; and Sausalito Incline Street Railway Company having applied for a certificate that public convenience and necessity require and will require the exercise by said company of the rights and privileges granted by said ordinance and the performance of construction work thereunder; and Sausalito Incline Street Railway Company having applied for an order authorizing the issue of capital stock in the amount and for the purposes specified in the opinion which precedes this order; and a public hearing having been held on said application; and the Railroad Commission finding that the purposes for which it is proposed to use the proceeds of the capital stock herein authorized to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. Allen H. Vance is hereby authorized to convey to Sausalito Incline Street Railway Company the franchise granted by Ordinance No. 235 of the town of Sausalito.

2. The Railroad Commission hereby declares that public convenience and necessity require and will require the exercise by Sausalito Incline Street Railway Company of the rights and privileges conferred by said

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Ordinance No. 235 of the town of Sausalito and construction thereunder.

3. Sausalito Incline Street Railway Company is hereby authorized to issue its preferred capital stock of the par value of $2,500.00 to Allen H. Vance and its preferred or common capital stock of the par value of $15,500.00, on the following conditions and not otherwise, to wit:

(*a*) The $2,500.00, par value, of preferred stock is to be issued to Allen H. Vance in partial payment for said franchise and for his work hitherto performed in promoting the enterprise and for his services hereafter to be rendered until completion of the enterprise, with the understanding that the franchise is not being capitalized except as provided by section 52 of the Public Utilities Act, and that when the enterprise is successfully completed Sausalito Incline Street Railway Company may apply for authority to issue such additional common capital stock to Mr. Vance as the company then believes should be paid to him.

(*b*) The $15,500.00, par value, of preferred or common capital stock hereinbefore referred to may be issued only at par, and only when fully paid for, and on the following conditions:

(1) $500.00 of said capital stock may be issued immediately, and the proceeds thereof, so far as necessary, used to pay for the preparation of complete, final, detailed plans and specifications for the construction of the railway.

(2) $15,000.00 of said capital stock may be issued from time to time, for the purpose of securing the funds to acquire the necessary rights of way and other real property, but all the funds secured from such issue shall be deposited at once in a reputable bank or banks in Marin County, and no such funds shall be withdrawn until at least $6,000.00 in cash is so deposited. If it should become impossible to raise the sum of $6,000.00 for this purpose, the moneys so deposited will thereafter be repaid, under supplemental order from the Railroad Commission, to the parties who paid the same, their successors or assigns.

(*c*) Sausalito Incline Street Railway Company shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds of the capital stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission stating the sale or sales of stock during the preceding month, the moneys realized therefrom, and the disposition of said moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The authority hereby given shall apply only to such capital stock as shall have been issued on or before October 1, 1915. If it becomes necessary, application may hereafter be made for an extension of time.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of September, 1914.

DECISION NO. 1820.

IN THE MATTER OF THE APPLICATION OF WESTERN WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE OF THE FACE VALUE OF TWENTY THOUSAND DOLLARS.

Application No. 1332.

Decided September 24, 1914.

Applicant authorized to issue its one-day promissory note of the face value of $20,000.00, bearing interest at the rate of 8 per cent, in renewal of three notes aggregating a like amount, proceeds of which were used in constructing a portion of its system.

Lilienthal, McKinstry & Raymond, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to issue a promissory note in the amount of $20,000.00, dated one day after the date of this order, payable one day after date to First National Bank of Bakersfield, or order, and bearing interest at the rate of 8 per cent per annum. This note is to be issued to take up three outstanding notes, all payable to First National Bank of Bakersfield, one for $5,000.00, dated April 2, 1912; the second for $10,000.00, dated April 6, 1912; and the third for $5,000.00, dated July 23, 1912. Each of these notes was payable one day after date and bears interest at the rate of 8 per cent per annum. The proceeds from the notes went into labor and material for the construction of pipe lines and buildings in the North Midway Field, in Kern County.

A public hearing on this application was held in San Francisco on September 24, 1914.

I find that the purposes for which the proceeds of the three notes which it is desired to refund were used are not reasonably chargeable to operating expenses or to income, and recommend that the application be granted.

I submit herewith the following form of order:

ORDER.

Western Water Company having applied to the Railroad Commission for an order authorizing the issue of a promissory note in the sum of

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$20,000.00, to be dated one day after the date of the order herein, payable one day after date, to First National Bank of Bakersfield, or order, and bearing interest at the rate of 8 per cent per annum, for the purpose of refunding three promissory notes, aggregating $20,000.00, set forth in the petition herein, and a public hearing having been held, and the Railroad Commission finding that the purposes for which the proceeds of the notes which are now to be refunded were used are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that said application be granted, subject to the following conditions:

1. Western Water Company shall report to the Railroad Commission within ten days after the issue of the promissory note hereby authorized, the fact of the issue and the terms thereof.

2. The authority hereby given shall not become effective until Western Water Company has paid the fee specified in section 57 of the Public Utilities Act.

3. The authority hereby given shall apply only to such promissory note as may be issued on or before November 1, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of September, 1914.

DECISION NO. 1821.

IN THE MATTER OF THE APPLICATION OF PLEASANT VALLEY WATER COMPANY FOR PERMISSION TO ISSUE TWO HUNDRED AND TWENTY-EIGHT SHARES OF CAPITAL STOCK.

Application No. 1342.

Decided September 24, 1914.

Applicant authorized to issue 228 shares of its capital stock of the par value of $1.00 per share, to be issued in lieu of a like number of shares heretofore issued without the Commission's approval, proceeds of which were used in additions to applicant's plant.

A. E. Shaw, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for authority to issue 228 shares of capital stock, of the par value of $1.00 per share, in lieu of 228 shares which were issued subsequent to March 23, 1912, without an order of this Commission authorizing such issue. This issue was made without knowl-

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edge of the provisions of the Public Utilities Act referring to issues of stock and with no intention to violate the act.

These shares were issued for cash, at par, and the proceeds thereof went into applicant's plant.

A public hearing in this application was held in San Francisco on September 23, 1914.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Pleasant Valley Water Company having applied to the Railroad Commission for an order authorizing the issue of 228 shares of its capital stock, of the par value of $1.00 per share, in lieu of 228 shares which have heretofore been issued without the Railroad Commission's authorization, and a public hearing having been held upon said application, and the Railroad Commission finding that the purposes for which the proceeds from the shares heretofore illegally issued were used are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that Pleasant Valley Water Company be and the same is hereby authorized to issue 228 shares of its capital stock, of the par value of $1.00 per share, to the following persons and in the following amounts:

Name.	Shares.
Mrs. E. A. Webb	42
J. D. Hornbuckle	25
J. W. Landers	12½
A. P. May	61
Clinton Kelly	12½
Mrs. I. E. Mabry	12½
S. R. Bowen	25
J. H. Lansberry	12½
Gus Spainhower	12½
E. F. Huggins	12½

in lieu of the same number of shares heretofore illegally issued, on the following conditions and not otherwise, to wit:

1. The certificates held by the above named persons, representing stock which was illegally issued, shall be returned to applicant before applicant issues the stock hereby authorized.

2. Pleasant Valley Water Company shall report to the Railroad Commission on the twenty-fifth day of each month, until all of the stock hereby authorized has been issued, such action as the company may take under this order.

3. The authorization hereby given shall apply only to such stock as may be issued prior to November 1, 1914.

The foregoing opinion and order are hereby approved and ordered

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filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of September, 1914.

DECISION NO. 1822.

CITY OF CORONA

vs.

CORONA GAS AND ELECTRIC LIGHT COMPANY.

Case No. 663.

Decided September 24, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled proceeding having on September 21, 1914, made written application to the Railroad Commission that the complaint be dismissed,

It is hereby ordered that the complaint in the above entitled proceeding be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 24th day of September, 1914.

DECISION NO. 1823.

BALDWIN PARK CHAMBER OF COMMERCE

vs.

BALDWIN PARK DOMESTIC WATER COMPANY.

Case No. 423.

Decided September 24, 1914.

Complainant alleges that the present practice of respondent company of requiring prospective consumers to sign a ten-year contract to take water, and also demanding and collecting a charge for service connections and meter, is unjust and unreasonable, and petitions the Commission to direct respondent to discontinue such charges and to fix reasonable rates for water service.

Held, That as the Commission has uniformly contended that utilities cannot charge consumers for installation of service connections and meters, no exception should be made in the present case; also that the rule requiring consumers to sign a ten-year contract is unreasonable and should be discontinued. In view of the fact that respondent has made application to increase its rates, in connection with which proceeding the rates will be considered, no action taken upon this portion of the complaint.

Gail & Pence, for Complainants.

Daniel M. Hunsaker, for Defendant.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The complaint of Baldwin Park Chamber of Commerce alleges that the defendant, Baldwin Park Domestic Water Company, of which S. M. Walker is the proprietor, is engaged in selling and distributing water for domestic use to the residents of Baldwin Park, which is situated about thirty miles east of the city of Los Angeles; that the business methods employed by the defendant are such as to seriously retard the growth of the community served by the company; that the defendant refuses to install service connections for domestic consumers except upon payment of a charge therefor, the amount of which charge is not uniform, and that it is unjust and unreasonable to impose upon the consumer any charge for installing such service connections; that the defendant company has in effect a regulation providing that the company will furnish water only in case the consumer signs a contract to receive water for a period of ten years, and that such a regulation is unjust and unreasonable. The complaint asks that this Commission require the defendant to install service connections and meters free of cost to domestic consumers and declare that consumers shall not be required to sign a contract to receive water for a term exceeding one year.

The answer of Baldwin Park Domestic Water Company denies that its business methods are such as to retard the development of Baldwin Park; denies that the charge imposed upon domestic consumers for service connections has no uniformity; alleges that at the present rates at which water is supplied, the company is unable to make any profit. The defendant asks that the complaint be dismissed and that the rates of the company be increased.

The request of Baldwin Park Domestic Water Company for an increase in rates was subsequently made the subject of an application filed with this Commission, namely, Application No. 747—"*In the matter of the application of Baldwin Park Domestic Water Company, S. M. Walker, proprietor, for authority to increase rates and charges and for authority to change rules and regulations.*" In the order upon that application the Commission will give full consideration to the question of the proper rates to be charged by Baldwin Park Domestic Water Company.

In the present case, therefore, there are but two issues presented, namely, the reasonableness of the rule of the defendant company requiring that domestic consumers pay for the cost of installing service connections and the reasonableness of the rule of defendant company requiring consumers to sign a ten-year contract to receive water.

This Commission has heretofore announced in several cases that it is the duty of public service water companies to install, at their own ex-

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pense, meters and service connections from the mains of the company to the premises of the consumer. There is no reason for making an exception in the present case. In considering the application of Baldwin Park Domestic Water Company to increase its rates, it will be assumed that the company will install meters and service connections without cost to consumers, and the rates established will be determined upon that basis. I recommend, therefore, that the company be required to abrogate its regulation requiring domestic consumers to pay a charge for meters and service connections.

Baldwin Park Domestic Water Company has entirely failed to justify its regulation requiring consumers to sign a ten-year contract to receive water. Furthermore, I am unable to say how such a regulation can be of advantage even to the company. It will be extremely difficult to enforce such a contract. The requirement that a ten-year contract be signed by the consumers appears to me in this case to be clearly unreasonable. While the complaint asks that this regulation be declared unreasonable and that the consumers be not required to sign a contract for a term in excess of one year, I believe that it is unreasonable for the company to even insist upon a one-year contract. I, accordingly, recommend that the company be required to abrogate its present regulation requiring that a ten-year contract be signed by those desiring water.

I submit herewith the following form of order:

ORDER.

This case having come on regularly for hearing and the Commission being duly advised in the premises,

The Commission hereby finds as a fact that the regulation of Baldwin Park Domestic Water Company, requiring domestic consumers to pay a charge for the installation of a meter and service connection from the main of the company to the property line of the consumer, is unjust and unreasonable; and

It is hereby ordered that said regulation be and the same is hereby abrogated, and that said company be and it is ordered to install a five-eighths-inch meter and a three-fourths-inch service connection from its mains to the property lines, free of charge for all persons living in Baldwin Park along the mains or pipes of said company, and who shall, in good faith, request a service connection for the supply of water for domestic use.

The Commission further finds as a fact that the regulation of Baldwin Park Domestic Water Company requiring the consumers to sign a ten-year contract to receive water is an unjust and unreasonable regulation; and

It is hereby ordered that said regulation be and the same is hereby abrogated.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of September, 1914.

DECISION NO. 1824.

IN THE MATTER OF THE APPLICATION OF BALDWIN PARK DOMESTIC WATER COMPANY, S. M. WALKER, PROPRIETOR, FOR AUTHORITY TO INCREASE RATES AND TO CHANGE RULES AND REGULATIONS.

Application No. 747.

Decided September 24, 1914.

Applicant, contending that its present rates are insufficient to provide a fair return upon capital invested, petitions the Commission for permission to increase its present rates for domestic water.

Held, That though the present rates of applicant are insufficient, the new schedule proposed is not justified. Rate of $1.50 per month minimum for 600 cubic feet or less, 15 cents per 100 cubic feet for additional amounts up to 2,000 cubic feet, and 10 cents per 100 cubic feet for water used in excess of this amount established, effective October 1, 1914. Applicant directed to file, within thirty days, for the approval of the Commission, a set of rules consistent with the provisions of this order and the order in Case No. 423.

Daniel M. Hunsaker, for Applicant.

Gail & Pence, for Baldwin Park Chamber of Commerce.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

In this application Baldwin Park Domestic Water Company, which supplies water to inhabitants of the unincorporated territory of Baldwin Park in Los Angeles County, asks permission to raise the rates charged its patrons for domestic water and to alter its rules and regulations. The rates for domestic water now in effect are:

$1.50 for 1,000 cubic feet or less per month.
.10 for each additional 100 cubic feet.

The rates which applicant desires to put into effect for domestic water are:

$2.50 for 1,000 cubic feet or less per month.
.15 for each additional 100 cubic feet.

No change was requested in the rate for irrigation use, which rate is 2½ cents per hour inch.

The system which applicant is operating was constructed in 1911, at which time a well was drilled on the ranch owned by Mr. Walker about one and one fourth miles from the center of Baldwin Park. Applicant found that his well could furnish more water than he needed

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for his own ranch, so he erected a 140,000-gallon steel tank, and installed mains in order to serve the district of Baldwin Park. There are about fifty-four domestic consumers on the system, all of whom, with one exception, are metered.

Applicant submitted to the Commission an appraisement of its public utility water property amounting to $17,720.88. The Commission's hydraulic engineering department also made a valuation of these properties and found that the original investment, including overhead expenses, amounts to $19,996.00. Deducting from this amount accrued depreciation of $1,558.00, the Commission's engineering department determined that the present value of the entire public utility property of applicant is $18,438.00. This value is slightly in excess of that submitted by applicant. The difference is due chiefly to applicant's failure to include in his estimate overhead expenses properly chargeable to capital account.

The Commission's engineering department has estimated applicant's annual operating expenses to be as follows:

Superintendent at $40.00 per month	$480 00
Office expense at $15.00 per month	180 00
Fuel at $50.00 per month	600 00
Oils, waste, etc	38 00
Repairs to pump, engine, etc	87 00
Legal advice	50 00
Taxes	112 00
Total	$1,547 00

The operating expense submitted by applicant includes an item to compensate the services of one man, devoting his entire time to the care of this system. Upon investigation, however, I find that it is not necessary for Mr. Walker to have one man devote his entire time to this service, but that it will be entirely sufficient, and that it has been the practice in the past, to have one man devote but half of his time to the care of the water system and the remainder of his time in employment upon Mr. Walker's ranch. The saving which will result from charging to the water utility only one half of the salary to be paid this employee of Mr. Walker's, constitutes practically the entire difference between the aggregate annual operating expense estimated by this Commission's engineering department and that submitted by applicant.

The revenue received by the applicant for the year ending September 1, 1913, was as follows:

From metered service, 12 months	$1,265 00
From flat rates, 12 months	22 00
From irrigation, 12 months	1,241 00
Total	$2,528 00

The Commission's engineering department has estimated applicant's

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proper operating expense to amount to $1,547.00. If to this is added $879.00 as a proper allowance for depreciation, and $1,290.66, which represents a 7 per cent return upon the valuation found by the Commission, we have a sum of, approximately, $3,700.00 which this property, when operated to full capacity, should return as annual income. It is apparent, therefore, that some change must be made in applicant's rates.

As at present constructed, however, applicant's system has the capacity to serve a much greater amount of water than is now being supplied. The system is more than adequate to supply present needs and was obviously constructed with a view to the development of the community and the supply to an increasing number of consumers as time continues. Baldwin Park is a comparatively new community and will unquestionably rapidly develop and become more thickly settled. For this reason I feel that the present consumers of applicant's system should not be charged with the burden of returning to applicant a full return upon the entire investment which applicant's system represents. While I shall recommend an increase in the existing rates, the rates so fixed will not return to applicant a full 7 per cent upon the valuation found by the Commission. As additional consumers are supplied by applicant, however, the amount of income will be increased, so that while I feel that the existing consumers should not be required to return an adequate revenue upon the entire investment, I have no doubt that in the very near future the number of consumers will have so increased that applicant will receive an adequate revenue upon the entire investment by charging the rates fixed in this proceeding. I recommend that applicant be allowed to put into effect the following rates for water supplied for domestic use:

$1.50 per month minimum for 600 cubic feet or less.
.15 per 100 cubic feet for the next 1,400 cubic feet.
.10 per 100 cubic feet for all excess above 2,000 cubic feet.

As mentioned before, applicant has not requested an increase in the present rate of 2½ cents per miner's inch for water served for irrigation use. This rate will, therefore, remain unaltered.

Applicant has also asked for authority to change its rules and regulations. In the decision of the Commission in Case No. 423, *Baldwin Park Chamber of Commerce* vs. *Baldwin Park Domestic Water Company*, this Commission made an order requiring Baldwin Park Domestic Water Company to install meters and service connections free of cost to domestic consumers under the conditions named in that order, and also to abrogate the regulation requiring consumers to sign a ten-year contract. These two regulations are those concerning which most of the dispute has arisen. The subject of these two regulations has been settled in the decision of the Commission in Case No. 423. I shall, accord-

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ingly, recommend no order establishing rules and regulations in the present proceeding, except that I recommend that the applicant be required to submit to the Commission for its approval within thirty (30) days from the date of this order a set of rules and regulations consistent with the rates established in this proceeding and with the order of the Commission made in Case No. 423.

I submit the following form of order:

ORDER.

Baldwin Park Domestic Water Company having applied to this Commission for authority to increase its rates and to establish new rules and regulations governing the service of water in Baldwin Park, Los Angeles County, California, and a public hearing having been held thereon,

The Commission hereby finds as a fact that the following are just and reasonable rates for applicant to charge for the supply of water for domestic use in Baldwin Park:

$1.50 per month minimum for 600 cubic feet or less.
.15 per 100 cubic feet for the next 1,400 cubic feet.
.10 per 100 cubic feet for all excess above 2,000 cubic feet.

And applicant is hereby authorized to put into effect, on and after October 1, 1914, the rates above mentioned for the supply of water for domestic use in Baldwin Park.

It is further ordered that within thirty (30) days from the date of this order applicant submit for the approval of this Commission a set of rules and regulations governing the supply of water used in Baldwin Park, which rules shall be consistent with the rates fixed herein and the order of this Commission made on the 24th day of September, 1914, in Case No. 423, *Baldwin Park Chamber of Commerce* vs. *Baldwin Park Domestic Water Company.*

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of September, 1914.

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Decision No. 1825.

IN THE MATTER OF THE APPLICATION OF FAIRFAX DEVELOPMENT COMPANY TO SELL ITS WATER SYSTEM TO MANOR WATER COMPANY AND OF MANOR WATER COMPANY TO ISSUE STOCK IN EXCHANGE THEREFOR.

Application No. 1338.

Decided September 21, 1914.

Fairfax Development Company, desiring to separate its utility from its real estate business, applies for permission to sell to the Manor Water Company its water system at Fairfax for an amount of stock of the latter company satisfactory to the Commission.

Held, Manor Water Company authorized to issue and deliver to the Fairfax Development Company 1,476 shares of its capital stock of the par value of $10.00 per share in exchange for the water system owned by the latter company at Fairfax, which water system the Fairfax Development Company is authorized to sell.

Prentice S. Gray, for Applicant.

Report of the Commission.

Loveland, *Commissioner*.

Fairfax Development Company is engaged in the business of buying, subdividing and selling lands in and about Fairfax, Marin County, California, and also operates a small public utility water company in this district. Fairfax Development Company desires to segregate this public utility water company from its business of buying and selling lands. To this end applicant has caused to be incorporated Manor Water Company. The present application seeks the authority of this Commission to transfer to Manor Water Company the public utility water property now operated by Fairfax Development Company. In exchange for this property Manor Water Company asks authority to issue to Fairfax Development Company stock, the amount thereof to be fixed by this Commission. Manor Water Company at present has no stock, bonds or other evidences of indebtedness outstanding.

The Commission's engineering department made an appraisement of the public utility water property at Fairfax Development Company, and found the present value thereof to be $14,768.00. This appraisement does not include a certain well which Fairfax Development Company believes is necessary for the supply of water in this district and which it desires to transfer to Manor Water Company.

I do not deem it necessary that a detailed investigation be made at this time into the value of the property to be transferred. This is not a proceeding to fix the rates at which water will be supplied in the Fairfax district. Fairfax Development Company is to take stock of Manor Water Company issued in exchange for the property transferred,

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and as this is the only stock which Manor Water Company will have outstanding there is no need to make such a detailed investigation of the value of the property transferred as is usually made by this Commission in rate fixing inquiries. Fairfax Development Company objected to certain of the items of value in the appraisement made by the Commission's engineers as being too low, although the company stated that it was willing, for the purpose of this proceeding, to accept the appraisement made by the Commission's engineers, with the understanding that the company will not be bound by this appraisement in a rate-fixing inquiry.

Manor Water Company has an authorized capital of $25,000.00, divided into 2,500 shares, of the par value of $10.00 each. I recommend that this application be granted and that Manor Water Company be authorized to issue 1,476 shares of its capital stock issued to Fairfax Development Company in exchange for the public utility property which Fairfax Development Company desires to transfer.

I submit the following form of order:

ORDER.

A hearing having been had upon the application herein and the Commission being duly advised in the premises,

It is hereby ordered that Fairfax Development Company be and it is hereby authorized to transfer to Manor Water Company the following described public utility water property:

Wells and real estate:

2—12" cased wells (used.)
1—12" cased well (reserve).
1—43" well (reserve).
With side tunnel 8'x8'–30' long.
Real property upon which said wells are situated.

Tanks and real estate:

2—10,000 gallon redwood tanks.
1—2,000 gallon redwood tank.
Real property upon which said tanks are situated.

Distribution system and equipment:

4" crane black dipped.
2½" crane black dipped.
2" crane black dipped.
¾" galv. iron standard screw.

Motors:

7½ horsepower single phase Century, 220 volts, 1116 R. P. M.
3½ horsepower single phase Century, 220 volts, 1165 R. P. M.
2 horsepower G. E. motors 1800 R. P. M., 220 volts, single phase.

Pumps:

Gould, deep well, 2¾" cyl. 10" stroke Fig. 1030, with pump head rods, split steel pulley, rod guides.
Gould Triplex pump, 4x4, Fig. 924, single-acting outside packed pump, 30 to 40 gals. per M. capacity.
1—Duplex pump.

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Meter:

⅝" Nash meter.

Fire plugs:

2—Fire plugs with iron Angl. gate valve.
8—Fire plugs with brass Angl. gate valve.

Valves:

13—4½" crane, globe valves.
12—2½" crane, globe valves, iron body.
4—2½" Lukenheimer clip valves.
Tools, pipes, equipment and supplies on hand.
Wiring from Pacific Gas and Electric Company's power line to pumps;
Shed over motor;
Pump house;
Together with rights of way and easements necessary for tunnels and pipe lines now constructed over lands of Fairfax Development Company.

It is further ordered that Manor Water Company be and it is hereby authorized to issue to Fairfax Development Company capital stock of the par value of $14,760.00 for the transfer to Manor Water Company of the property above mentioned, upon the following conditions, and not otherwise, to wit:

1. Manor Water Company shall, upon the issuance of the stock above mentioned, file with the Commission a verified statement of the amount of stock issued, together with a copy of the bill of sale or deed granting to it the property herein authorized to be transferred.

2. The authority herein granted Manor Water Company to issue stock shall apply only to stock issued on or before December 31, 1914.

3. The par value of the stock herein authorized to be issued shall not be taken before this Commission nor any other public body as representing for rate-fixing purposes the value of the property transferred.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of September, 1914.

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DECISION NO. 1826.

CONSUMERS AND PURCHASERS OF ELECTRIC CURRENT AND LIGHT OF THE CRESCENT CITY LIGHT, WATER AND POWER COMPANY

vs.

CRESCENT CITY LIGHT, WATER AND POWER COMPANY, AND T. B. CUTLER.

Case No. 501.

Decided September 24, 1914.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

ORDER OF DISMISSAL.

All the complainants in the above entitled case having on September 24, 1914, filed with this Commission a petition that the complaint in this proceeding be dismissed,

It is hereby ordered that the above entitled case be and the same is hereby dismissed without prejudice.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of September, 1914.

DECISION NO. 1827.

IN THE MATTER OF THE APPLICATION OF THE MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF A NOTE.

Application No. 1095.

Decided September 24, 1914.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

This Commission having issued its Decision No. 1541 in the above entitled matter on May 23, 1914, authorizing the applicant herein to renew its promissory notes to the amount of $163,269.27, and the applicant herein now having asked for a modification of said order so that the note in favor of the Commercial Bank of San Luis Obispo, in the amount of $10,000.00, shall bear interest at not less than 8 per cent per annum,

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It is hereby ordered that applicant herein be and it is hereby authorized to renew said note for $10,000.00 at a rate of interest not to exceed 8 per cent per annum.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of September, 1914.

Decision No. 1828.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF TRUSTEES OF THE CITY OF FORT BRAGG TO FIX THE COMPENSATION TO BE PAID FOR THE WATER SYSTEM OWNED BY H. F. MILLIKEN AND THE FORT BRAGG WATER COMPANY.

Application No. 1148.

Decided September 25, 1914.

The City of Fort Bragg petitions the Commission to fix a valuation of the water system serving that city, owned by H. F. Milliken and Fort Bragg Water Company, which after careful appraisement by the Commission's hydraulic department the sum of $45,000.00 is fixed as a fair price to be paid by the city for said system.

Held, As to the contention of Mr. Milliken that his water rights have a value of between $100,000.00 and $150,000.00, based upon cost of the next available source of supply: That if this contention was allowed, and the city, instead of purchasing the present system, used the money to develop the next available source of supply, leaving the present system without consumers, which it is unable to replace, thereby rendering it valueless, would not such procedure be justified, considering the attempt of the present system to effect a valuation greatly in excess of the actual value? That it is this method of procedure, followed by the majority of monopolistic utilities, which necessitates regulation.

Held, That in consideration of the unbusinesslike manner in which the present system has been operated, and also considering that at the present time it is just adequate to supply present consumers, no allowance made for "going concern value" or "cost of developing business."

J. A. Pettis, city attorney, for Applicant.

H. F. Milliken, for the water company.

Report of the Commission.

Eshleman, *Commissioner*.

OPINION.

The petitioner in this case applies to have a price fixed upon the water system of the company supplying the city of Fort Bragg. The property involved is described as follows:

Source of water supply: A small stream on south side of Noyo River approximately two and one fourth (2¼) miles southeast of the city of Fort Bragg, in what is commonly known as "Newman's Gulch." This stream furnishes two hundred and twenty-five (225) gallons of water per minute during summer months, according to gaugings made by Engineer R. E. Donohoe during the year 1913. The watershed

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from which this stream is supplied consists of several hundred acres, covered with a heavy growth of timber and underbrush. The timber, however, is now being removed for the purpose of making ties and lumber.

Reservoir: The water is diverted from this stream by a dam consisting of timbers placed across the stream, with puncheons set on end above said timbers.

Lands surrounding said stream are owned by the Union Lumber Company, a corporation.

The water is carried from the dam or reservoir hereinbefore described a distance of eight hundred thirty-three (833) feet, in a northwesterly direction, in a covered wooden flume measuring approximately ten (10) by twelve (12) inches, to a box or trough twelve (12) feet long and two (2) feet twenty (20) inches deep, and sixteen inches wide; the water flowing thence in a general northwesterly direction through an eight-inch (8") machine-banded wooden pipe for a distance of six thousand and fifty-nine (6059) feet to the east line of the city limits of the city of Fort Bragg; thence west along Oak street in said city forty-seven (47) feet; thence west along Oak street in a ten-inch (10") machine-banded wooden pipe five hundred eighty-six (586) feet, to a point where the main line leaves Oak street; thence northwesterly across lands of H. F. Milliken three hundred twenty-one (321) feet to a blow-off pipe, at which point main is reduced from ten (10) inches to eight (8) inches; thence through an eight-inch (8") machine-banded wooden pipe two hundred seventy-nine (279) feet to an eight-inch (8") gate near intersection of a pipe leading from an old reservoir; thence eight (8) feet through an eight-inch (8") machine-banded wooden pipe to an intersection with an old eight-inch (8") pipe line leading from said old reservoir; thence northwesterly along said old eight-inch (8") pipe line one hundred fifty-five (155) feet, at which point it connects with a ten-inch (10") machine-banded wooden pipe; thence in a westerly direction nine hundred eighty-seven (987) feet to a ten-inch (10") gate near the west end of trestle that carries pipe line across a ravine; thence westerly six hundred thirteen (613) feet to east line of Harold street, and thence west crossing Harold street, and along Redwood avenue two thousand two hundred forty (2240) feet to a point seventeen (17) feet west of the east line of Main street.

Distributing mains leading away from above described main supply line south from Redwood avenue:

On Morrow street, south from Redwood avenue, two-inch (2") galvanized iron pipe, twelve hundred fifteen (1215) feet.

On Harold street, south from Redwood avenue, two-inch (2") galvanized iron pipe, fifteen hundred sixty-five (1565) feet.

On Corry street, south from Redwood avenue, two-inch (2") galvanized iron pipe, five hundred sixty (560) feet.

On Whipple street, south from Redwood avenue, two-inch (2") galvanized iron pipe, five hundred fifty (550) feet.

On Harrison street, south from Redwood avenue, two-inch (2") galvanized iron pipe, five hundred thirty (530) feet.

On MacPherson street, south from Redwood avenue, two-inch (2") galvanized iron pipe, fourteen hundred sixty (1460) feet.

On Franklin street, south from Redwood avenue, two-inch (2") galvanized iron pipe, fourteen hundred sixty (1460) feet.

On Main street, south from Redwood avenue, six-inch (6") five hundred (500) feet, two-inch (2") four hundred (400) feet, galvanized iron pipe.

On Oak street from MacPherson street east, two-inch (2") galvanized iron pipe, three hundred sixty (360) feet.

On Redwood avenue from west end of the ten-inch (10") supply pipe hereinbefore described, running westerly along Redwood avenue, one hundred sixty (160) feet, a six-inch (6") main, and south about five hundred (500) feet, a five-inch (5") main; from thence pipe leading to the Union Lumber Company's mill property.

Distributing mains leading away from above described main supply line north from Redwood avenue:

On Harold street, north from Redwood avenue, three-inch (3") galvanized iron pipe, thirteen hundred sixty (1360) feet; thence on Fir street westerly six hundred

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ninety (690) feet. On Laurel street, from Harold street east, two-inch (2") galvanized iron pipe, nine hundred (900) feet; and on Laurel street from Harold street west, two-inch (2") galvanized iron pipe, eighty (80) feet. On Perkins street, from Fir street north, two-inch (2") galvanized iron pipe, six hundred fifty (650) feet. On Fir street from Harold street east, two-inch (2") galvanized iron pipe, one hundred (100) feet. On Corry street, from Fir street south, two-inch (2") galvanized iron pipe, one hundred (100) feet.

On Corry street, north from Redwood avenue, two-inch (2") galvanized iron pipe, seven hundred fifty (750) feet. On Perkins way, from Fir street north, two-inch (2") galvanized iron pipe, eight hundred fifty (850) feet.

On Whipple street, north from Redwood avenue, two-inch (2") galvanized iron pipe, thirteen hundred thirty (1330) feet. On Pine street, west from Whipple street, two-inch (2") galvanized iron pipe, one hundred sixty (160) feet.

On Harrison street, north from Redwood avenue, two-inch (2") galvanized iron pipe, nineteen hundred fifty (1950) feet.

On MacPherson street, north from Redwood avenue, two-inch (2") galvanized iron pipe, thirteen hundred twenty (1320) feet.

On Franklin street, north from Redwood avenue, two-inch (2") galvanized iron pipe, fifteen hundred fifty (1550) feet. Then on Laurel street from Franklin street east, one-inch (1") galvanized iron pipe, one hundred fifty (150) feet. On Laurel street from Franklin street west, one-inch (1") galvanized iron pipe, one hundred fifty (150) feet. On Pine street from Franklin street west, two-inch (2") galvanized iron pipe, three hundred eighty (380) feet. On Fir street from Franklin street west, two-inch (2") galvanized iron pipe, one hundred (100) feet.

On Main street, north from Redwood avenue, six-inch (6") galvanized iron pipe, eight hundred seventy-five (875) feet. On Main street from south line of Pine street, four-inch (4") galvanized iron pipe, five hundred (500) feet. On Main street from Fir street north, two-inch (2") galvanized iron pipe, five hundred (500) feet. On Laurel street from Main street east, one-inch (1") galvanized iron pipe, one hundred (100) feet. On Laurel street from Main street west, two-inch (2") galvanized iron pipe, four hundred (400) feet. From intersection of Pine and Main streets, northerly through Block 7 and into Block 6, about five hundred (500) feet of two-inch (2") galvanized iron pipe. On Fir street from Main street west, two-inch (2") galvanized iron pipe, nine hundred forty (940) feet. On Stewart street from Fir street south, two-inch (2") galvanized iron pipe, two hundred eighty (280) feet. On Stewart street from Fir street north, two-inch (2") galvanized iron pipe, six hundred forty (640) feet. On West street from Fir street south, two-inch (2") galvanized iron pipe, six hundred (600) feet. On West street from Fir street north, two-inch (2") galvanized iron pipe, six hundred (600) feet. On Pine street from Stewart street east, two-inch (2") galvanized iron pipe, one hundred fifty (150) feet.

The measurements and distances herein given are approximate and are taken from a map prepared by H. F. Milliken, president and principal owner of the Fort Bragg Water Company.

Where distributing mains leave main supply line, the connection is made with a pipe of smaller diameter than diameter of distributing main. Each distributing main has a gate valve or stopcock near its point of intersection with main supply line, the nature or condition of which can only be ascertained by examination in each case.

So far as it has been possible to ascertain or determine, there are four eight-inch gate valves, three ten-inch gate valves, in addition to the two-inch valves or stopcocks heretofore mentioned.

There are about five hundred service connections of an average length of thirty (30) feet each, galvanized iron pipe.

There are no fire hydrants serviceable or usable connected with said water system.

Profile accompanying this petition shows hydraulic grade line cut by pipe line; also that the eight-inch pipe is on the upper end of line, and ten-inch pipe on the lower end of line; and that just after entering city limits line is first eight-inch pipe,

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then ten-inch pipe, then eight-inch pipe, then back to ten-inch pipe. As nearly as can be ascertained, the eight-inch and ten-inch pipe has been installed and in use for eight years or more, and that portion of the pipe line near the old reservoir herein referred to, has been installed and in use for a much longer period.

The map of the water system and town, accompanying this petition, was prepared by H. F. Milliken, defendant herein, and his engineers, and profile and map of that portion of water system outside of the city of Fort Bragg, was made by Engineer R. E. Donohoe, at the instance and request of the petitioner.

For data as to location of pipe lines, elevations, etc., refer to profile and maps accompanying this petition. Meagerness of detailed description herein is due to lack of sufficient data and incompleteness of said water company's records.

OTHER PROPERTY.

All water rights, water appropriation rights, rights of way, or other rights or franchises or property necessary or appurtenant to or in any way connected with said water system above described, owned by either the said H. F. Milliken or said Fort Bragg Water Company, or necessary or convenient in the business of supplying the city of Fort Bragg with water, and not hereinbefore specifically mentioned.

Hearings were held at Fort Bragg on June 25th, and, again, on the application of Mr. Milliken for the company, on July 24th, at the office of the Commission.

The evidence shows that the system of the Fort Bragg Water Company consists principally of an intake on Newman Gulch, a branch of the Noyo River entering from the south, a transmission line, part of closed wood flume, and part of 8-inch and 10-inch wood-stave pipe, and a distribution system of small pipe lines in the town of Fort Bragg.

The length of pipe of the different sizes given in the tabulations accompanying this opinion are agreed upon between the authorities of Fort Bragg and H. F. Milliken, owner of the water company, excepting that there are added some lengths of pipe not included previously and found to be in existence at the time of inspection of this system. Close determination of the actual extent of the pipe lines would be impossible without extensive excavation to determine where each lateral terminates.

The diversion works on Newman Gulch is of logs, with board facing, forming a dam about 30 feet long and 7 feet high. From this point a flume of 2 by 12 redwood extends for about 800 feet, the clear opening being 8¼ inches by 12¼ inches. This flume does not admit of use as a pressure line, and is erected with a grade of about two feet in eight hundred. A considerable portion of this box flume is built on trestle. At one point, water is brought from the west side of Newman Gulch in a 2-inch pipe over a smaller stream and emptied into this box. At the end of the wood flume there is a settling box which forms the intake of the 8-inch pipe line extending to and into the city limits.

It was contended by certain witnesses at the preliminary hearing that the pipe lines within the town of Fort Bragg were inadequate and in such condition that they would have to be replaced *in toto*. On June 25th the pipe lines were uncovered at some twenty points, these places

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being chosen by the city authorities, and the pipe examined in so far as is possible by inspection of the outside. At no points were the pipe lines found to be in such condition as to require replacement on account of physical condition. To determine the condition of the interior of the pipe lines would require considerable time and expense for an inspection of the condition over the entire system.

One length of pipe supposed to have been in place for twenty-two years was removed and tested up to a pressure of 200 pounds, and would probably have sustained at a greater pressure. It was not possible during the limited time to make a pressure test upon a portion of the system in place, and judging by the condition of this pipe and the exterior appearance, there is no danger of failure excepting, possibly, at points where connections have been made.

A section of the 1½-inch pipe mentioned in the testimony as being almost completely deteriorated was cut out and carefully examined. The material of this pipe, which had been in place more than twenty years, is reduced, practically, not at all, but the interior of the pipe is filled to such an extent that the carrying capacity would be about equal to that of a 1-inch pipe, due to tuberculation and the deposition of sediment. The company has been in the habit of clearing the pipe lines by opening at various points and scraping, and apparently, if this is done frequently, the pipe lines will remain throughout the ordinary life of such pipe of reasonable capacity.

On the day of inspection there was apparently sufficient pressure at all points to reach the second story of dwellings. In my opinion, distribution throughout the town could be rendered adequate by some such plan as the following: The transmission main is a 10-inch pipe running westward along Redwood avenue; at Herold street, in the east portion of the town, a main of say 6-inch pipe can be laid two blocks each way from Redwood avenue north and south, and extended thence west along Pine and Oak streets, connecting at all cross streets with the smaller lines already installed. By this method, with the addition of connecting lines, which would give circulation throughout the system, the present pipe lines may reasonably be used for the remainder of their useful life. Besides increasing service capacity and pressure through the town, these lines would provide direct service for territory not now supplied. Undoubtedly the present distribution system is not all it should be, and at least a part of the cost of such installation as here suggested may be considered a measure of the inadequacy of the system at this time and properly a measure of the reduction of reproduction cost to arrive at the value to the town of Fort Bragg.

The tentative plans of the city include the erection of a reservoir having a capacity of about 2,000,000 gallons, to be built some 600 feet above the present intake, the top of the dam being 35 and the base 15

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feet above the present intake dam. The installation of a pipe line of 10-inch diameter between this reservoir and the present settling box and intake of the 8-inch pipe line will provide a sufficiently increased head to give a safe capacity of about 400,000 gallons per day, and, with the storage capacity provided, will undoubtedly provide safely a large increase over the present demand. The data is not sufficient to make a close estimate of the safe yield of this water source, but it appears to be entirely unnecessary to seek any other supply for a long time to come. Further, it is undoubtedly advisable that the town be fully metered. There being about 500 consumers, the expense of metering would be not far above $5,000.00, and this expenditure would doubtless be proper whether the system is in private or municipal ownership.

Cost of Plant.

The book records of the Fort Bragg Water Company are very incomplete and do not give in any detail cost data that will provide an adequate check upon a reproduction cost estimate. The business of this company is stated to have been carried on by Mr. Milliken in connection with many other activities, and the time of himself and others employed on this and his other business has not been carefully segregated. Exhibit "A" following gives a statement from his books of the moneys expended in 1905 and 1906 and the total receipts from water sales for the several years, of which only a record appears to have been made.

Mr. Milliken reported that the following payments had been made for riparian rights and rights-of-way, but that he could not support his statements with better testimony:

To John Pereria	$100	
To Joe Lewis	100	
To Chas. Rondio	100	
To Mat Stewart	20	
		$320

The Union Lumber Company gave right-of-way for an agreement to furnish 50,000 gallons per day at one cent per 1,000 gallons. The Casper Lumber Company owns 300 feet, crossed by Newman Gulch, to which this water company has no real right. In addition to the amounts that Mr. Milliken states he has paid for water rights there undoubtedly was a considerable expense involved in his personal investigation and negotiations in obtaining the water rights and rights-of-way.

Mr. Milliken's letter to the trustees of the city of Fort Bragg, dated August 5, 1913, makes mention of his activities in this regard, and it seems only proper that he should be remunerated for his services.

Exploratory Expense.

This system was commenced in the years 1889-90, at which time the source of supply was wells in the town of Fort Bragg, and then, or soon afterward, a reservoir was constructed on lands still owned by Milliken

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in the eastern part of the town. Later, Mr. Milliken sank seven wells on the mesa lands, along the line of the present transmission line between the Noyo River crossing and the town of Fort Bragg. Two of these wells are still used to a certain extent as equalizing tanks, being connected in and out with the transmission main. Of the two wells in use, one is 14 feet in diameter, the other 18 feet in diameter, and each stated to be 20 feet in depth, and are cased with 2-inch redwood planking, and roofed. No testimony was presented by Mr. Milliken establishing the cost either of the wells now in use, or of those which were sunk and found worthless as sources of supply. The material is stated to be a very fine sand, through which the wells were sunk with great difficulty to impervious material. All were sunk for the purpose of obtaining a water supply and failed to develop a sufficient amount for the needs of the town. It seems undoubtedly true that Mr. Milliken could have obtained sufficient information of the water supply available upon this mesa land by test borings at a very small proportion of the expense incurred in sinking these wells, and only the two wells used as equalizing tanks will be considered to have any use value at this time. The cost of developing the business of this concern is impossible of reasonable determination, due to the condition of the records kept by Mr. Milliken. However, it does appear, as the operation of this system has not been carried on in a businesslike manner and as the system at the present time is no more than adequate for the needs of the present consumers, improper that the city of Fort Bragg should pay an amount largely in excess of the value otherwise determined for any item of going concern or cost of developing business.

Thus, after locating every element of cost connected with the water right and appraising other elements of the plant, the engineers of the Commission recommended a total of $41,802.00 as the value of this system. At the second hearing additional elements were discovered, raising the valuation to $42,548.00.

Mr. Milliken contends strenuously that the value of the water right should be determined by finding the cost of pumping water from the Noyo River and capitalizing such cost. Affidavits were presented showing that it would cost approximately 4.6 cents per thousand gallons to pump water from the Noyo River for the use of the city of Fort Bragg. Based upon this cost, the owner of the system contends for a valuation of the water right alone of from $100,000.00 to $150,000.00, on the theory that the city of Fort Bragg, rather than be required to pump the water from the Noyo River, could afford to pay such an amount for the stream controlled by Mr. Milliken. The Commission has heretofore commented upon the inconsistency of contending for a monopoly value in a regulated industry. If we carry the contention of the owner of this property to its logical conclusion, then if there were only one source of

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supply of water for a municipality and a private owner secured it, it would be impossible for such municipality to secure such source of supply unless it would pay any amount which the owner demanded up to the entire ability to pay possessed by such municipality. It is to prevent just this, both as to the sale of the commodity which is the product of the monopoly and, likewise, the sale of the monopoly itself to any governmental agency that gives warrant to the regulation of monopolies. However strongly the doctrine here advanced is pressed upon this Commission, it should never be adopted as a rule of action, because it is unfair and would permit the private owner of a public necessity to take advantage of the necessities of a community, and it is to prevent this that regulation is resorted to and commissions such as this Commission are created.

It is peculiar that the owners of property such as this do not see that there are two sides to the question. Suppose, for its own purposes, the city of Fort Bragg saw fit to endure the added cost that it is alleged would be necessary if water were pumped from the Noyo River and should disregard the system of this applicant, as it has a right to do and has been done elsewhere, where would the value of this property be then? The only remaining value would be the value that would exist by reason of the ability of the owner to apply the water in his control to some other purpose than the furnishing of the inhabitants of this municipality. Certainly he could not object if, after having attempted to secure all that the necessities of his patrons would force them to pay, such patrons went elsewhere and secured their supply of water, and he could not object even if such course on their part destroy the value of his property. It must be recognized that the relationship between the owner of a public utility—or any business for that matter—and his patrons is reciprocal. The value contributed by the patrons of a monopoly which exists merely because such agency is a monopoly is a value which the laws for generations have forbidden such owner to take.

The evidence in this case shows that Mr. Milliken has been a public-spirited and helpful citizen in Fort Bragg and has been very liberal in the conduct of his system. It is even urged that he has been too liberal, in that he has rebated to poor consumers their water bills in many instances. The city authorities and the people of this section evince the kindliest disposition toward Mr. Milliken and it is my desire, of course, to accord to him a fair and liberal value for his property. I have attempted to have located every element of cost which has gone into this water right and every other legitimate element of value that can be considered, and I believe that the engineers of this Commission have been liberal in the valuations in this case. In order, however, that there may be no doubt that an ample sum is allowed for this property, I will recommend that a sum sufficiently in excess of the cost of the water right be

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allowed to make the entire value of the property $45,000.00, and I find as a fact that such amount is a just compensation to be paid by the city of Fort Bragg to H. F. Milliken and the Fort Bragg Water Company for the property listed and described in this opinion.

I submit the following form of order:

ORDER.

City of Fort Bragg having applied to this Commission to fix a just compensation to be paid to H. F. Milliken and the Fort Bragg Water Company for the water system described in the opinion hereto, and a hearing having been held and being fully apprised in the premises,

The Commission hereby finds as a fact that $45,000.00 is a just and adequate compensation to be paid by the city of Fort Bragg to H. F. Milliken and the Fort Bragg Water Company for the property described in the opinion hereto.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of September, 1914.

The following exhibits show in detail:

The cost records (Exhibit "A").

Reproduction cost depreciated by the straight-line method to reach present value (Exhibit "B").

EXHIBIT "A."

Cost Records of the Fort Bragg Water Company.
(1905, page 92, "Record" Book.)

INSTALLATION (capital account).

5,818 feet redwood pipe, 8-inch diameter.
158 feet galvanized pipe, 8-inch diameter.
800 feet wood flume, 2 x 12-inch redwood, 8 x 10-inch opening.

6,776 feet of main at $1.25		$8,470
To W. B. Ward	$35	
To Windlex (plumbers)	283	
To J. Cummins (labor)	212	
To supplies	75	
Interest on $9,000 at 8 per cent	720	
Interest on $8,470	350	
Taxes	150	
President's salary	250	
Total not charged to new work		2,075
Grand total		$10,545

(1906, page 95, "Record" Book.)

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INSTALLATION.

4,000 feet 10-inch redwood pipe, at $1.50	$6,000	
1,302 feet 6-inch standard screw pipe, at $1.00	1,302	
Valves, X's, tees, etc.	300	
1,654 feet 3-inch S.S. galvanized pipe, at 60 cents	992	
100 feet 5-inch S.S. pipe, at $1.00	100	
1,640 feet 2-inch S.S. pipe, at 35 cents	574	
New work		$9,268
Taxes	$200	
Interest on $20,000 at 8 per cent	1,600	
Incidentals	100	
President's salary	500	
Total not charged to new work		2,400
Grand total		$11,668

INCOME FROM WATER SALES.

1903	$2,580
1904	2,535
1905	3,090
* * * * * * * *	
1912	$5,500
1913	5,200

NOTE.—Returns of 1905 appear to have covered the cost of maintenance and operation and interest on investment of $13,380 at 8 per cent for a full year, and left a surplus for depreciation and interest on additional investment of $1,015.

The report to the city, dated August 5, 1913, stated that expense was:

Operation expenses and laying new mains	$1,500
Six per cent interest on a valuation of $60,000	3,600
Total	$5,100
and that income was	5,500
leaving a profit of	$400

It does not appear then that there was at any time in the period since 1903 a deficiency.

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EXHIBIT "B." VALUATION SCHEDULE.

Item	Quantity	Unit	Unit cost	Amount	Percent overhead	Reproduction cost	Depreciation: Age years	Depreciation: Probable useful life	Depreciation: Per cent	Depreciation: Amount	Sub-totals	Present value
Diversion dam (estimated)			$200	$200	15	$230	9	20		$104	$126	
Flume	800	feet	0.693	554	15	637	9	12		478	159	
Settling box				35	15	40	9	12		30	10	
Pipe, 8" wood m. b.	6,000	feet	0.99	5,940	15	6,831	9	30		2,049	4,782	
Pipe, 8" standard galvanized	158	feet	2.145	339	15	390	9	20		175	215	
Pipe, 2" standard black	400	feet	0.219	88	15	101	5	20		25	76	
Pipe, 8" standard black	460	feet	1.583	728	15	837	12	24		419	418	
Pipe, 10" wood	4,000	feet	1.056	4,224	15	4,857	8	40		971	3,886	
Wells, 18' x 20', reinforced	150 5,500	cubic yard feet, b. m.	3.00 .05	725	15	834			50	417	417	
Wells, 14' x 20'	110 3,000	cubic yard feet, b. m.	3.00 .05	480	15	552			67	365	187	
Valves	8	10", 8", and 4"	25.00	200	15	230			25	57	173	
Extra rock work						342					200	
Lands, right of way	3	acres	50.00	150	10	165					165	
Total diversion and transmission												$10.814
Distribution system.												
Pipe, 10" wood m. b.	747	feet	1.056	789	15	918	8	40		183	735	
Pipe, 8" wood m. b.	390	feet	.990	386	15	444	9	35		114	330	
Pipe, 6" ss. galvanized	1,302	feet	.982	1,279	15	1,471	8	30		392	1,079	
Pipe, 6" ss. galvanized	233	feet	.982	229	15	263	4	30		35	228	
Pipe, 5" ss. galvanized	400	feet	.781	312	15	359	4	30		48	311	
Pipe, 4" ss. galvanized	500	feet	.573	286	15	329	4	30		44	285	
Pipe, 3" ss. galvanized	1,654	feet	.425	703	15	809	8	28		231	578	
Pipe, 3" ss. galvanized	396	feet	.425	168	15	193	4	28		28	165	
Pipe, 2" ss. galvanized	11,290	feet	.245	2,766	15	3,181	17	25		2,163	1,018	
Pipe, 2" ss. galvanized	10,000	feet	.245	2,450	15	2,817	4	25		451	2,366	
Pipe, 1" ss. galvanized	400	feet	.157	63	15	72	10	20		36	36	
Pipe, 5" ss. black dipped	100	feet	.651	65	15	75	8	30		20	55	
Pipe, 2" ss. black dipped	1,640	feet	.219	359	15	413	8	25		132	281	

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Valves				200	15	230	10	30		77	153	
Specials, 3½ per cent of pipe				300	15	345	10	30		115	230	
Connections	200		5.22	1,043	15	1,200	21	25		1,008	192	
Extra rock work						100				33	67	8,109
Water rights:												
Stated cost											320	
Estimated overhead											1,000	1,320
Land owned at intake	41	acres	100	4,100								4,100
Possible exploratory expense, wells on mesa	5	each	400			2,000						
Reservoir in east of town						4,000						
Experiment with R. S. pipe						1,000						7,000
Stock in tools not listed, principally property of plumbers employed to do all work.												
Contract with Union Labor Co. to deliver 50,000 gals. per day and certain flat use. Large use now discontinued. In 8½ years 155,125 may have been used and if loss was 4¢ per M gal.—total loss											6,205	
Flat rate use loss, claimed by Milliken, about											5,000	
Possible additional cost of water right												11,205
Grand total												$42,548

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Decision No. 1829.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 1331.

Decided September 28, 1914.

Applicant's trust deed providing for the retirement on September 1st of each year, of 1 per cent of its outstanding bonds, for each bond so retired trustee to certify to a bond in a like amount, and there being $170,000.00 face value having been certified in this manner it is proposed by applicant to issue this amount for sinking fund purposes. Application granted, said bonds to be sold to trustee at a price equal to which bonds for the same purpose could have been obtained.

S. M. Haskins, for Applicant.

Report of the Commission.

Edgerton, *Commissioner.*

This is an application by Pacific Light and Power Corporation for an order authorizing the issue of 170 of its first and refunding mortgage bonds of a face value of $170,000.00.

Applicant's trust deed provides that in September of each year there must be retired 1 per cent of the outstanding bonds, secured by such trust deed. On September 1st of this year there was due approximately $200,000.00 under this provision.

Another provision of this trust deed is that for every underlying bond retired there may be certified by the trustee a bond for a like amount of the bonds of applicant. Under this provision $170,000.00 face value of underlying bonds have been retired, and a like amount of applicant's bonds have been certified to it by its trustee. It is these bonds that applicant asks authority to issue and it is proposed to sell them to the trustee as part payment on the $200,000.00 now due under the sinking fund provisions of the trust deed.

The sinking fund provisions of this trust deed are unusually heavy, and inasmuch as $170,000.00 of underlying bonds have been retired I see no reason why applicant should not be allowed to issue a like amount of its own bonds for the purpose of complying with the sinking fund provisions.

The situation would be entirely different if applicant's sinking fund provisions were not more than safety required, because in effect, the granting of this application maintains the obligation of applicant in *status quo.* But, in view of the financial condition of this corporation, I think that this is justified at this time. It is proposed to obtain the balance of the money required by the sinking fund provision from sources other than the proceeds of securities or stock.

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The trustee, under the trust deed, may obtain bonds for the sinking fund in the following ways: By private purchase; by purchase on any stock exchange; by advertising for bids.

I think it is impossible to fix a minimum price at which applicant may sell these bonds to the trustee, because it is obvious that the duty of the trustee will be to obtain these bonds at a price not greater than he would have to pay under the methods above set out, and it is impossible to tell what price he could obtain. Obviously, he must obtain bonds for the sinking fund at the lowest possible price.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made by Pacific Light and Power Corporation for an order authorizing the issue of 170 of its first and refunding mortgage bonds of a face value of $170,000.00, and a public hearing having been had, and it appearing to the Commission that the proceeds from the sale of said bonds are not reasonably chargeable to operating expenses or to income, and that the proceeds from the sale of said bonds are needed for the discharge of the obligations of applicant,

It is hereby ordered by the Railroad Commission of the State of California that Pacific Light and Power Corporation is hereby authorized to issue 170 of its first and refunding mortgage bonds of a face value of $170,000.00, upon the following terms and conditions, and not otherwise, to wit:

1. Said bonds shall be sold to the trustee acting under the trust deed executed by applicant under which said bonds are issued, the proceeds from such sale to be used solely for the purpose of complying with the sinking fund provisions in said trust deed.

2. Said bonds shall be sold at a price equal to that which the trustee under said deed could purchase like bonds for under the methods set out in said trust deed.

3. Immediately upon the sale of the bonds hereby authorized being made, report thereof under oath shall be made to the Railroad Commission.

4. This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, shall have been paid.

5. The authority hereby granted to issue bonds shall apply only to bonds issued by said company on or before the 1st day of April, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of September, 1914.

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DECISION NO. 1830.

WM. G. ROOD

vs.

PACIFIC LIGHT AND POWER CORPORATION.

Case No. 666.

Decided September 28, 1911.

Complainant petitions the Commission to compel defendant electric company to extend a service connection a distance of 190 feet so as to serve a residence owned by him, and it appearing after a hearing that such service should be given, *held*, defendant directed to make the necessary extension, provided, that complainant agree to pay, for a period of one year, the minimum rate of $1.00 per month.

S. M. Haskins, for Defendant.

Wm. G. Rood, in propria persona.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is a complaint by Wm. G. Rood, in which he alleges that Pacific Light and Power Corporation has refused to extend its line to his property in the city of San Fernando, and furnish him electric lighting service. He prays that this company be compelled to make this extension and furnish him service.

The company's defense is that to furnish plaintiff with service would require an investment of about $150.00, and that there was no assurance of any return whatever from the plaintiff, as his property was rented to a tenant who might move out, leaving the property vacant. Further, even if the minimum was assured this would only produce $12.00 a year, which would not provide a fair return on this investment.

Plaintiff's house is approximately 190 feet from the nearest available line of defendant, and his house is wired, ready for electric service. In close proximity to the house of plaintiff there are four other houses, and in the same block there are ten houses altogether, all of which, except plaintiff's, are occupied by Mexican families. Plaintiff contends that some of these Mexican families will wire their houses and take electric service if the extension he asks for is made, but the company introduced evidence to show that these Mexican families have been canvassed, with the result that none of them were willing to agree to take service.

I think this extension should be made. It must be remembered that this company has the right, under the constitution of this State, to extend all over the city of San Fernando without obtaining a franchise from the authorities therefor, and this privilege, of course, carries with it an obligation to properly serve this community. Obviously, neither

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this defendant nor other utility corporations should be compelled to at once extend to every portion of every city in which they have such privileges, as this would lead to results detrimental, both to the public and the company, but reasonable extensions should be made even though they do not at the time produce profitable business by themselves. I am unwilling to conclude that out of ten occupied houses only one will take electric lighting service, especially after a demonstration of the use of this service in one of these houses. On the other hand, I do not believe in forcing extensions unless such extensions will be made use of, and therefore I think a reasonable requirement would be that before this extension is made, plaintiff be required to guarantee, for one year at least, the minimum rate charged in San Fernando.

I submit herewith the following form of order:

ORDER.

Complaint having been made by Wm. G. Rood against Pacific Light and Power Corporation, alleging the refusal of said corporation to furnish lighting service to said complainant, and a public hearing having been had and the case submitted, and the Commission fully advised in the premises,

It is hereby ordered by the Railroad Commission of the State of California that Pacific Light and Power Corporation extend its electric lighting service wires to the house of plaintiff, located on lots 35 and 36, block 57, Porter Land and Water Company's resurvey of the town of San Fernando, and thereafter to furnish electric lighting service to said house.

Provided, however, that before commencing the installation of such service extension, plaintiff shall enter into a written guarantee with defendant whereby the payment of the minimum monthly rate for electric lighting service charged in the city of San Fernando shall be guaranteed for a period of one year.

Immediately upon the making of such guarantee defendant shall proceed to install the service hereinabove provided for.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of September, 1914.

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Decision No. 1831.

IN THE MATTER OF THE APPLICATION OF UNION HOME TELEPHONE AND TELEGRAPH CORPORATION FOR PERMISSION TO RENEW NOTES.

Application No. 1326.

Decided September 28, 1911.

Applicant authorized to issue promissory notes aggregating the sum of $22,700.00 in renewal of notes of a like amount now due.

W. W. Butler, for Applicant.

Report of the Commission.

Edgerton, *Commissioner.*

This is an application by Union Home Telephone and Telegraph Corporation for authority to issue promissory notes.

Applicant has outstanding promissory notes in the aggregate sum of $22,700.00.

Notes were made prior to the effective date of the Public Utilities Act, except as to $3,000.00 thereof, notes representing the latter sum having been executed subsequently to the effective date of the act.

The evidence is that all of the money received upon the issuance of these notes was used for betterments and additions to plant.

It is now proposed to renew or refund these notes by executing new notes for like amounts to the same payees, the new notes to be made payable on or before one year after date.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made by Union Home Telephone and Telegraph Corporation, for an order authorizing the issue of promissory notes, and a public hearing having been had, and it appearing to the Commission that the purposes for which the proceeds from the issuance of said notes are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the issuance of said notes is necessary for the purpose of refunding the obligations of applicant,

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It is hereby ordered by the Railroad Commission of the State of California that Union Home Telephone and Telegraph Corporation is hereby authorized to issue promissory notes as follows:

Payee	Amount	Rate
The John M. C. Marble Company	$7,500	6% per annum
U. S. Long Distance Telephone and Telegraph Co.	1,200	7% per annum
National Bank of Long Beach	1,000	7% per annum
Kellogg S. and S. Co.	4,000	6% per annum
Kellogg S. and S. Co.	3,000	6% per annum
National Bank of California	1,000	7% per annum
Kellogg S. and S. Co.	2,000	6% per annum
First National Bank of Long Beach	1,000	6% per annum
San Bernardino National Bank	1,000	7% per annum
Orange County Savings and Trust Co.	1,000	7% per annum

Said promissory notes shall be made payable on or before one year after the date thereof, and said promissory notes, or the proceeds from the issuance thereof, shall be used only for the purpose of retiring promissory notes representing indebtedness to the same persons and in like amounts as are hereinabove set out in the authorization for the issuance of new notes.

Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the issuance of said promissory notes hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the terms and conditions of the issuance of said promissory notes, the moneys realized therefrom and the use and application of such moneys.

This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, shall have been paid.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of September, 1914.

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Decision No. 1832.

IN THE MATTER OF THE APPLICATION OF THE CONSOLIDATED SECURITIES COMPANY FOR LEAVE TO SELL, AND OF THE SAN FERNANDO TELEPHONE AND TELEGRAPH COMPANY FOR LEAVE TO PURCHASE, THE LOCAL TELEPHONE SYSTEM IN THE CITY OF SAN FERNANDO.

Application No. 1269.

Decided September 28, 1914.

Consolidated Securities Company authorized to sell its certain telephone system in the town of San Fernando to the San Fernando Telephone and Telegraph Company and the latter company authorized to issue its promissory note in the sum of $20,000.00 in payment thereof, also 10,000 shares of its capital stock to be sold at not less than par, proceeds to be used in additions and betterments to plant only after such proposed betterments have been approved by the Commission.

W. J. Williams, for Applicant.

Report of the Commission.

Edgerton, *Commissioner.*

This is an application by Consolidated Securities Company for authority to sell a public utility property and by San Fernando Telephone and Telegraph Company to issue $5,000.00 par value of its capital stock and to execute a promissory note for $20,000.00 and to exercise rights and privileges under a franchise.

Consolidated Securities Company is engaged in the general business of real estate agents and brokers in the county of Los Angeles, and as an incident to said business, now owns and operates a telephone plant in the city of San Fernando.

On April 10, 1914, Consolidated Securities Company entered into an agreement with R. J. McHugh, whereby said McHugh was given an option to purchase this telephone plant. Among other things, it was provided that McHugh must organize a corporation to take over this property, the corporation thereupon to issue its promissory note to Consolidated Securities Company in payment thereof in the principal sum of $20,000.00, with interest at 6 per cent per annum, the principal to be paid $250.00 per year until five payments have been made, for the next five years $500.00 per year and for the next nine years $1,000.00 per year, the balance at the expiration of twenty years. This note to be secured by a trust deed on all of the telephone property.

In addition the corporation was to issue and sell $5,000.00 of its capital stock at par and expend this money on betterments to the telephone plant.

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A franchise was to be obtained from the city of San Fernando for the operation of said plant.

The corporation above provided for has been organized, a franchise has been obtained and the parties to this option agreement are ready to carry out the terms thereof upon obtaining the necessary authority from this Commission.

This property has been variously estimated as of a present value of $21,000.00 with the $5,000.00 added which is to be obtained from the proceeds of the sale of stock, which would make a total value of $26,000.00, up to a total value of $35,000.00.

Without making a definite finding of value, I am satisfied from the evidence and from the report of Mr. Wilson, the telephone expert of this Commission, that the property is sufficient to justify the issuance of the $20,000.00 note and of the $5,000.00 par value of stock, provided, the proceeds from the sale of stock are invested in the property. A still more favorable aspect has been put upon this proposition by an offer made by applicants, subsequent to the hearing, to subscribe for an additional $5,000.00 of stock at par. This money to be used for proper capital purposes.

The consummation of this transaction will undoubtedly result in a much improved telephone service for the people of San Fernando, and in addition, it will bring the desired result of separating this utility business from the land business of the Consolidated Securities Company.

I therefore recommend that the application be granted and submit herewith the following form of order:

ORDER.

Application having been made by Consolidated Securities Company for an order authorizing the sale of a public utility telephone property, and by San Fernando Telephone and Telegraph Company for authority to issue a promissory note in the principal sum of $20,000.00 and capital stock of the par value of $10,000.00 and to exercise rights and privileges under a franchise, and a public hearing having been had, and it appearing to the Commission that said application should be granted and that the purposes for which the proceeds from the sale of said promissory note and said capital stock are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered, by the Railroad Commission of the State of California, that Consolidated Securities Company is hereby authorized to sell all of its telephone plant and property located in the city of San

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Fernando, to San Fernando Telephone and Telegraph Company in consideration of the execution to said vendor by said vendee of a promissory note in the principal sum of $20,000.00, bearing interest at 6 per cent per annum, principal payable in installments over a period of twenty years as provided in that certain agreement marked Exhibit "B" on file herein.

San Fernando Telephone and Telegraph Company is hereby authorized, to execute the promissory note just above described, and as security for the payment thereof to execute a trust deed or mortgage upon all of its property.

Said promissory note shall be issued and delivered in consideration of the conveyance to said San Fernando Telephone and Telegraph Company of all that certain telephone plant and property in the city of San Fernando now owned and operated by Consolidated Securities Company, and of that certain franchise heretofore granted Consolidated Securities Company by the city of San Fernando, a copy of which franchise is marked Exhibit "C" on file herein, free and clear of all encumbrance, except the trust deed or mortgage hereinbefore mentioned.

San Fernando Telephone and Telegraph Company is further authorized to issue and sell $10,000.00 par value of its capital stock upon the following conditions:

Said stock shall be sold so as to net said company not less than full par value.

All of the proceeds of the sale of said stock shall be used for betterments and additions to the telephone plant of said company located in the city of San Fernando. Provided, however, that none of the money realized from the sale of said stock shall be used for any purpose until there shall have been submitted for the approval of the Commission a detailed statement of the proposed betterments and improvements to be made to said plant.

It is hereby declared, by the Railroad Commission of the State of California, that public convenience and necessity require the exercise by San Fernando Telephone and Telegraph Company of rights and privileges granted under that certain franchise heretofore given Consolidated Securities Company by the city of San Fernando, and dated July 27, 1914, a copy of which said franchise marked Exhibit "C" is on file herein.

Provided, however, that the authorization hereinabove given for the

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transfer of this telephone property shall not become effective until there shall have been sold by San Fernando Telephone and Telegraph Company $10,000.00 of the stock at par as above authorized.

Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of said stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the terms and conditions of the sale of said stock, the moneys realized therefrom and the use and application of such moneys.

This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, shall have been paid.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of September, 1914.

Decisions Nos. 1833 and 1834, grade crossings; not printed. See end of volume.

DECISION NO. 1835.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY COMPANY FOR AUTHORITY TO ISSUE CERTAIN NOTES AND BONDS.

Application No. 1243.

Decided October 1, 1914.

Supplemental order authorizing applicant to pledge $105,000.00 face value of its first mortgage bonds, heretofore authorized, as security for a one day note in the sum of $62,500.00, said bonds to be returned to applicant's treasury when note secured thereby has been taken up.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission, on July 28, 1914, in Decision No. 1689, having granted Oakland, Antioch and Eastern Railway authority to issue $330,000.00 face value of its first mortgage 5 per cent bonds and to pledge said bonds together with other bonds as collateral security for an issue of three year notes at the ratio of $1,000.00 of bonds to $500.00 of notes;

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And Oakland, Antioch and Eastern Railway now having made application to this Commission for authority to use $105,000.00 of the said $330,000.00 of its first mortgage 5 per cent bonds as collateral security for a one day note in the sum of $62,500.00, said note to be repaid and the bonds returned to applicant's treasury upon the collection of a certain assessment delinquent October 8, 1914;

It is hereby ordered that Oakland, Antioch and Eastern Railway be given authority and it is hereby given authority to pledge $105,000.00 of its first mortgage 5 per cent, thirty year bonds as collateral security for a one day note to Union Trust Company of San Francisco in the sum of $62,500.00; said $105,000.00 of first mortgage 5 per cent thirty year bonds being a part of the $330,000.00 first mortgage 5 per cent thirty year bonds of applicant heretofore authorized by this Commission in its Decision No. 1689, to be pledged as collateral security for three year notes of Oakland, Antioch and Eastern Railway.

The authority herein given is given upon the following conditions and not otherwise:

1. Applicant shall return to its treasury the $105,000.00 of bonds herein authorized to be pledged, upon the collection of its assessment delinquent October 8, 1914.

2. The authority herein shall expire on November 1, 1914.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of October, 1914.

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DECISION NO. 1836.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND ARIZONA LAND COMPANY TO TRANSFER ITS WATER SYSTEM TO THE CITY OF GLENDALE.

Application No. 1339.

Decided October 2, 1914.

REPORT OF THE COMMISSION.

Los Angeles and Arizona Land Company having applied to this Commission for authority to transfer to the city of Glendale, for the sum of $700.00, the following pipe lines in Tract 250 in the city of Glendale:

4-inch pipe on Canada boulevard,
4-inch pipe on Opechee way, and a portion of Bonita,
4-inch pipe on Wabasso,
4-inch pipe on Bena way,
2-inch pipe on Avenue A,
2-inch pipe on Novella drive and a portion of Avenue B,
6-inch pipe on a portion of Canada boulevard, and
8-inch pipe on a portion of Lot 197,

together with the necessary gates, connections, pumps and engines; and the Commission being of the opinion that the application should be granted,

It is hereby ordered that this application be and the same is hereby granted.

By order of the Railroad Commission.

Dated at San Francisco, California, this 2d day of October, 1914.

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DECISION NO. 1837.

GUGLIELMETTI TELEPHONE COMPANY

vs.

CHILENO VALLEY TELEPHONE COMPANY.

Case No. 530.

Decided October 3, 1911.

Complaint alleges that defendant company has extended its lines into complainant's territory without first securing the necessary permission and has taken over a number of its consumers, and petitions the Commission to compel the withdrawal of defendant from such invaded territory.

Held, Defendant directed to either remove or dispose of, within sixty days, its lines running into complainant's territory and also to file within thirty days, a schedule of rates eliminating all differences in rates now existing between stockholders and non-stockholders.

W. H. Early, for Complainants.

Chas. F. Fury and *Lippitt, Lippitt & Fury*, for Defendant.

T. F. DeLury, for The Pacific Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The complainant and defendant in this case each owns and operates a system of rural or farmer telephone lines in certain rural districts contiguous to the city of Petaluma, Sonoma County, California. Neither the complainant not defendant company operates a central exchange, but provides and maintains its main or connecting lines over the various public highways and connects its main lines at the city limits with connecting lines which are provided by The Pacific Telephone and Telegraph Company for local exchange and long distance toll service through the latter company's exchange in Petaluma. The subscribers or patrons of each company provide their own telephones and the necessary drops or branch lines from their premises to the various points on the public highways where they connect with the main lines owned by these companies. For the service which The Pacific Telephone and Telegraph Company furnishes, each company pays to The Pacific Company for each of its patrons the rates established by that company for farmer line stations and for such long distance messages as may be charged to these stations. In addition to The Pacific Company's rates, these companies have established certain other rates which they charge their patrons for profit. Thus they have become public utilities subject to the jurisdiction, control and regulation of this Commission and to the provisions of the Public Utilities Act.

The complaint alleges, among other things, that the defendant, Chi-

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leno Valley Telephone Company, has unlawfully invaded certain territory previously served by the complainant's lines and is about to extend its lines into certain other territory now served by the complainant company. For relief it prays that the defendant be required to remove its lines from and to cease to operate in the invaded territory; that it be enjoined from entering the other certain territory which it is about to enter, and that the Commission fix and declare a reasonable rate to be charged for telephone service in the invaded territory. For answer the defendant enters a general denial of all of the allegations set forth in the complaint and has filed a cross complaint alleging that the complainant has unlawfully invaded a portion of the defendant's territory.

This case came to formal hearing in Petaluma on May 22, 1914. Testimony was introduced going to show that the defendant company commenced its operations during the early part of the year 1908, and that about a year later the complainants completed their first lines. During the first years of their operation before the present powers of control over public utilities were vested in the Commission, it appears that the complainant company built its lines into territory which had been previously served by the defendant company's lines, but this occurred as a result of certain litigation between the parties to this complaint, in which the Commission is in no wise involved. In this, the Commission, therefore, is not concerned. It appears, however, according to the testimony, that the defendant has since the effective date of the act extended its lines into territory along a certain road known as Chapman Lane, which was originally served by the complainant's lines, without an order of the Commission authorizing the extension. The record shows that this extension was originally planned to provide service over the defendant's lines for one M. De Martin, president of the company, who was one of its original promotors and who had moved to a farm which is located on this road and desired to continue service over those lines because of his interest in that company. It was not, however, intended to serve other patrons in that particular section.

The defendant company's rates, however, are lower than those of the complainant and as this fact became known to certain of the complainant's patrons who are located along Chapman Lane, arrangements were completed between them and the defendant company to discontinue service from the complainants and to connect their premises with the defendant company's lines. The complainants accordingly claim that, under Section 50 (*a*) of the Public Utilities Act, this extension was unlawfully made and is now asking an order of the Commission requiring the withdrawal of the defendant's lines from this road.

With reference to the complainant's allegation that the defendant is about to extend its lines into other territory now served by complain-

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ant's lines and to the complainant's prayer for a restraining order enjoining the defendant from making such extension: The territory involved is along what is known as Cleveland Lane. According to the testimony the defendant company has not arranged to build along this lane, and since all parties concerned as a result of this complaint have been made fully aware of their rights as provided by the Public Utilities Act with respect to the extension of lines, I do not consider that an order of the Commission appertaining to this particular point in this complaint is at this time necessary.

With reference to the defendant's cross complaint alleging that this complainant has since March 23, 1912, extended its lines into territory previously served by defendant's lines without the Commission's authorization: The testimony shows that the particular extensions complained of were not constructed for and are not in the property of this complainant or of any of its patrons.

With reference to the petition of the complainants that the Railroad Commission fix and declare a reasonable rate to be charged for telephone service in the invaded territory: It has been previously observed that the rates charged its patrons by the defendant, Chileno Valley Telephone Company, are lower than the rates of the complainant, Guglielmetti Telephone Company. It is apparent, aside from any desire on the part of the complainants for the Commission to establish a reasonable rate for telephone service, that the complainants, not knowing whether the Commission will order withdrawal of the defendant from the disputed territory, desire (in the event that the defendant be permitted to continue to operate in that territory) that the defendant shall not be allowed to exercise the advantage which it would have if the rates of both companies were not the same.

Prior to filing this complaint, Guglielmetti Telephone Company had not filed its tariffs with the Commission as required by General Order No. 15 and by the Public Utilities Act, but as shown by the testimony it charges each of its patrons $17.00 per year, out of which amount it pays to The Pacific Telephone and Telegraph Company $7.20, less a specified cash discount for prompt payment for each of its patrons. Chileno Valley Telephone Company pays a similar rate to The Pacific Company for each of its patrons and in addition, according to the testimony, charges certain of its patrons, except stockholders, who have signed five-year contracts and paid in advance for that period, $5.00 per year. For patrons not stockholders and signing one-year contracts, a rate of $6.00 per year is charged. Stockholders pay only The Pacific Company's rate or, in other words, so far as the defendant's rate is concerned, pay nothing whatever for their service.

So far as the difference between the $5.00 and $6.00 rate of the Chileno Valley Telephone Company is concerned, while I do not agree

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that this practice is reasonable, I am not at this time disposed to deny the right of the defendant to discount accounts paid in advance if the same privilege in this respect is held out to all of its patrons alike. However, as to preferential rates being held out to stockholders, I am of the opinion and this Commission has heretofore taken the position that similar rates for similar service should be open to all patrons alike whether they be stockholders or non-stockholders, and those desiring to purchase stock should be paid dividends in such amount as their investment may be able to properly earn. I shall accordingly recommend that the rates to stockholders and those not owning stock be made the same.

The chief source of complaint is apparently involved in the feature of invasion of territory, and so far as other changes in rates are concerned, since the disposition of the difficulty relative to the invasion of territory is not necessarily dependent upon a readjustment of rates and since the determination of any rate for the class involved in this case, namely, farmer or rural line service, will be dependent upon the Commission's later findings in matters now before it in other proceedings and in matters yet to come before it, I shall for the present withhold further recommendations with reference to further changes in the rates of either of these companies.

Referring now to the extension of this defendant's lines along Chapman Lane which has resulted in a loss of patronage by the complainants to the defendant company: It has been already pointed out that this extension was primarily designed to provide service over the defendant's lines for Mr. De Martin and that the subsequent taking over of the complainant's patrons by the defendant was not contemplated in the defendant's original plans. It is shown by the record that the complainant did not oppose the extension of defendant's lines for the purpose of serving Mr. De Martin, and at the suggestion of the Commission the complainant and defendant each agreed at this hearing to arrange a mutually satisfactory compromise contemplating the withdrawal of the defendant from Chapman Lane, except that it should continue to serve Mr. De Martin. Ample time has been allowed by the Commission to all parties concerned to arrange a satisfactory adjustment of their difficulties, but although it is plain that this extension was made in violation of the provisions of the Public Utilities Act, such adjustment has not yet been effected. In view of this fact and all of the circumstances involved, the duty of this Commission appears to demand the exercise of its powers to require due observance of those provisions, and I shall recommend that the defendant, Chileno Valley Telephone Company, except that it be permitted to continue to serve Mr. De Martin, whose present place of residence is located on Chapman Lane, over the defendant's lines, be required to remove or otherwise dispose of its

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lines along said Chapman Lane, and to discontinue serving any and all other patrons located in this particular locality until the further order of this Commission.

The following order is recommended:

ORDER.

Complaint having been made to this Commission by A. J., W. J., and R. P. Guglielmetti, copartners, doing business under the firm name and style of Guglielmetti Telephone Company, complainants, vs. Chileno Valley Telephone Company, a corporation, defendant; the complainant and defendant companies each owning and operating a system of rural or farmer telephone lines as public utilities in territory adjacent to the city of Petaluma, Sonoma County, California, alleging among other things that the defendant, Chileno Valley Telephone Company, since the effective date of the Public Utilities Act, without right or authority, and without the prior permission of this Commission, has extended its lines along a certain public highway known as Chapman Lane in competition with the lines of the complainants, Guglielmetti Telephone Company; and praying in part that the defendant be required to remove its lines and to cease to operate in the territory invaded by it, as aforesaid; and that the Commission fix and declare a reasonable rate to be charged for telephone service in said invaded territory; and a hearing having been held and the Commission having found as a fact,

(1) That the defendant herein, Chileno Valley Telephone Company, did, since March 23, 1912, without the prior authorization of this Commission and in violation of the provisions of Section 50 (*a*) of the Public Utilities Act, extend its lines along a certain public highway known as Chapman Lane into territory already served by lines of complainant, Guglielmetti Telephone Company;

(2) That, as more specifically referred to in the opinion accompanying this order, the rates charged its patrons for telephones by defendant, Chileno Valley Telephone Company, are not the same to its patrons who are stockholders as the rates charged its patrons who are not stockholders for similar service; and basing its opinion on the foregoing findings of fact,

It is hereby ordered: First, that the defendant herein, Chileno Valley Telephone Company, be and it hereby is ordered within not to exceed sixty (60) days from the effective date of this order to remove all of its present lines from, and to cease to operate in the territory along the said Chapman Lane, hereinbefore referred to, or within the said sixty (60) days herein specified to otherwise dispose of said lines to other parties and to cease to operate same in connection with its system and to make satisfactory showing to the Commission immediately thereafter that the provisions of this section have been fully complied with.

Second, that the defendant herein, Chileno Valley Telephone Com-

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pany, be and it hereby is ordered to publish, file with this Commission and place in effect within thirty (30) days of the effective date of this order similar rates for similar service to all of its patrons alike, whether its patrons are stockholders or non-stockholders, in addition to the yearly switching charge collected by The Pacific Telephone and Telegraph Company for connection with its Petaluma exchange as follows:

(*a*) To patrons signing five-year contracts and paying their accounts for the five-year period in advance, $5.00 per year.

(*b*) To patrons signing one-year contracts, $6.00 per year.

Provided, that the said defendant, Chileno Valley Telephone Company, may be permitted to continue the operation of its line from Western avenue along Chapman Lane to the premises owned and occupied by M. De Martin for the purpose of serving the said M. De Martin with telephone service over its lines but not for furnishing telephones or telephone service to any other party or parties along said Chapman Lane, nor for any other purpose than herein specifically provided for until the further order of this Commission.

And provided further that this order is not to be taken as approval of the rates of any or either of the companies involved in this proceeding, since the Commission has not yet passed upon their reasonableness.

And it is hereby further provided that the Commission does not waive any of its published rules relative to the sale or transfer of any portion of the property of the parties hereto nor any of the provisions of the constitution of this State or the Public Utilities Act with reference to such sale or transfer.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of October, 1914.

DECISION NO. 1838.

IN THE MATTER OF THE APPLICATION OF FRESNO INTERURBAN RAILWAY COMPANY FOR AUTHORITY TO ISSUE STOCKS AND BONDS.

Application No. 1084.

Decided October 3, 1911.

Applicant permitted to issue $12,000.00 par value of stock and $24,000.00 face value of its bonds, heretofore authorized, said stock and bonds to be issued to Mahoney Bros. in payment for materials furnished and construction work upon its line of railway.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

This Commission on June 4, 1914, in Decision No. 1563, in the above-entitled matter, having authorized the Fresno Interurban Railway Company to issue $60,000.00 of common stock consisting of 600 shares of the par value of $100.00 per share, and $120,000.00 of its ten year 6 per cent first mortgage bonds, on certain conditions therein set out; and the applicant herein having now reported to this Commission that it has expended in the construction of said railroad a sum approximating $35,000.00,

It is hereby ordered that the Fresno Interurban Railway Company be given authority and is hereby given authority to issue 120 shares of its common stock of the par value of $100.00 per share, or a total par value of $12,000.00; and $24,000.00 of its first mortgage 6 per cent ten year bonds, being a part of the 600 shares of common stock and of the $120,000.00 of first mortgage bonds authorized by this Commission in its Decision No. 1563 in the matter herein.

The authority herein given to issue said stock in the sum of $12,000.00 and said bonds in the sum of $24,000.00, is given upon the following conditions and not otherwise:

1. Said stock shall be issued to Mahoney Bros. in payment for materials, supplies and construction work performed by said Mahoney Bros. in the construction of a portion of said Fresno Interurban Railway Company, extending a distance of approximately two miles from Fresno.

2. The stock and bonds herein authorized to be issued shall be issued after applicant's trust deed shall have been amended, to the end that bondholders may be entitled to institute suit for the protection of their rights.

3. The authority herein given shall apply to such stock and bonds as shall have been issued on or before December 31, 1914.

4. Fresno Interurban Railway Company shall keep true, separate and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein given is conditioned upon the payment by

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the applicant of the proper fee for such bonds as were authorized in its Decision No. 1563, or for such bonds as are authorized in the Second Supplemental Order herein.

Dated at San Francisco, California, this 3d day of October, 1914.

DECISION NO. 1839.

IN THE MATTER OF THE APPLICATION OF NEVADA-CALIFORNIA-OREGON RAILWAY FOR PERMISSION TO DISCONTINUE ITS AGENCY AT HOT SPRINGS, CALIFORNIA, AND MOVE THE STATION BUILDINGS ONE AND ONE-TENTH MILES SOUTH TO THE CROSSING WITH THE SOUTHERN PACIFIC COMPANY.

Application No. 1288.

Decided October 3, 1914.

Applicant applies for permission to remove its station located at Hot Springs and consolidate it with its Caloreta station at which latter point its tracks connect with those of the Southern Pacific Company and it appearing that both shippers and passengers will be better served thereby, application granted.

R. M. Cox, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The application in the above entitled matter was filed with the Commission on August 18, 1914, and thereafter, on September 18, 1914, a public hearing was held at Amedee.

This application looks to the removal of the station facilities of the Nevada-California-Oregon Railway located at Hot Springs, to a point about eight tenths of a mile south of Hot Springs, where the recently constructed Fernley-Lassen branch of the Southern Pacific crosses the Nevada-California-Oregon Railway. The junction of the two railroads is called Caloreta, and at this junction the two railroads have constructed facilities for the interchange of stock and wish to build similar facilities for the exchange of freight and passengers. The fact that the Nevada-California-Oregon Railway is a narrow gauge railroad, while the branch of the Southern Pacific is standard gauge, necessitates the unloading and reloading of all stock transferred at this point and the transferring of all freight coming over the one railroad for delivery to the other and makes it necessary for both roads to have an agent there.

There is no town at Hot Springs, and at the hearing very many of the shippers who now use the Hot Springs depot testified that their convenience would be as well or better served if the station facilities were moved to Caloreta, and it was plainly shown that the business of the Nevada-California-Oregon Railway at Hot Springs does not justify the

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establishment of an agency at both Caloreta and Hot Springs. To the south of this junction at Caloreta, the nearest station is Amedee, at a distance of about four and five-tenths miles. At this point the Fernley-Lassen branch parallels the track of the Nevada-California-Oregon Railway and both railroads have here station buildings and agencies.

Passengers, at the present time, transferring from the Nevada-California-Oregon Railway to the Southern Pacific, or vice versa, get off at Amedee and are obliged to walk about twenty-two hundred feet from one station to the other.

At the hearing, the Commission received a petition, circulated by Mr. G. W. Callahan and signed by Mr. Callahan and many other people, which called the attention of the Commission "to the fact that the best interests of the people would be better served by making a joint station at Amedee, combining Hot Springs and Caloreta with Amedee." Mr. Callahan was present at the hearing and stated that while it was his opinion that this was true, he did not desire to make any objection to the proposed combining of Caloreta with Hot Springs in one agency, and that his petition was presented to call the attention of the Commission to the fact that at some future date, he hoped to secure joint facilities at Amedee by bringing the tracks of the two railroad companies nearer together. It was shown in this connection that this application would not affect in any way the present facilities of the Nevada-California-Oregon Railway at Amedee.

I am of the opinion that to establish a joint agency at Caloreta would be a great convenience to the traveling public; and to the shippers of freight over the Southern Pacific to points on the Nevada-California-Oregon; would be as convenient for the shippers who now use Hot Springs, and would be to the advantage of both railroad companies interested, both in the matter of expense and service, and I do not believe that the removal of the present station at Hot Springs to Caloreta would work a hardship upon any of the shippers who now ship over the Nevada-California-Oregon Railway.

I recommend the following order:

ORDER.

Nevada-California-Oregon Railway, having applied to the Commission for permission to discontinue its agency at Hot Springs and move the station buildings to the junction of its track with that of the Fernley-Lassen branch of the Southern Pacific at Caloreta, and a hearing having been held in the matter, at which all interested parties were represented; and it appearing, for the reasons stated above, that this application should be granted,

It is hereby ordered that Nevada-California-Oregon Railway be, and it hereby is, granted permission to discontinue its agency at Hot Springs

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and move the station buildings and the agency from that point to Caloreta.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of October, 1914.

DECISION NO. 1840.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF NINE PROMISSORY NOTES AGGREGATING TWO HUNDRED FORTY-NINE THOUSAND, NINE HUNDRED SIXTY-SEVEN DOLLARS AND THIRTEEN CENTS.

Application No. 1197.

Decided October 3, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission, on July 9, 1914, in Decision No. 1660, having authorized the applicant herein to issue its promissory notes in the sum of $249,967.13, and the applicant herein having, on October 1, 1914, asked for a modification of such order to the end that the note to the Bank of Central California, in the sum of $10,000.00, should bear interest at the rate of 7 per cent per annum;

It is hereby ordered that San Joaquin Light and Power Corporation be given authority to issue its note in the sum of $10,000.00 to Bank of Central California for a term not to exceed one year from date, said note to bear interest at the rate of 7 per cent per annum.

The authority herein given is given upon the condition that the note herein authorized to be issued shall be in lieu of the note in the sum of $10,000.00 authorized to be issued by San Joaquin Light and Power Corporation to Bank of Central California in Decision No. 1660 of this Commission.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of October, 1914.

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Decision No. 1841.

IN THE MATTER OF THE APPLICATION OF NEVADA-CALIFORNIA-OREGON RAILWAY FOR AUTHORITY TO DISCONTINUE ITS AGENCY AT DOYLE, CALIFORNIA, AND TO MOVE THE STATION BUILDING TO WESTERN PACIFIC TRANSFER.

Application No. 1287.

Decided October 3, 1914.

Applicant, after making application for permission to discontinue its agency station at Doyle, in consideration of the numerous protests against such removal, requests that said application be dismissed, application dismissed without prejudice.

R. M. Cox, for Applicant.

W. L. Garber, for Western Pacific Railway Co.

W. H. Earl, for Protestants.

Report of the Commission.

Gordon, *Commissioner.*

On August 18, 1914, Nevada-California-Oregon Railway filed with the Commission its application in the above entitled matter, and on September, 1914, a public hearing was held at Doyle.

At the present time the railroad facilities at Doyle consist of a station on the Western Pacific, and a station on the Nevada-California-Oregon, by road, about one mile distant from the Western Pacific station. To the north of the Doyle station about four thousand feet, measured along the tracks of the Western Pacific, is a freight house with transfer tracks where freight is transferred from the cars of Nevada-California-Oregon Railway, a narrow gauge line, to the Western Pacific, a standard gauge road, and vice versa.

Doyle is in the heart of a large cattle country and the present facilities for handling cattle consist of stock pens at the Doyle station on both railroads. From these stations cattle are driven from one road to the other. It was the intention of the applicant to discontinue the present station at Doyle, move the station and facilities for handling stock to the vicinity of the transfer track and the freight house previously mentioned, and abandon the agency at Doyle. It developed at the hearing, however, where the citizens and business men of Doyle were largely represented, that there was a strong opposition against discontinuing the Doyle agency and after very many witnesses were heard, who all testified along the same lines, and to the effect that the abandonment of the present Doyle station would work a great hardship upon the people of Doyle, Mr. Cox, in behalf of applicant, asked the Commission to dismiss the application.

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I recommend the following form of order:

ORDER.

Nevada-California-Oregon Railway, having filed its application in the above entitled matter, and a hearing thereafter having been held at Doyle, at which all interested parties were given a chance to be heard, and applicant having then asked the Commission to dismiss this application,

It is hereby ordered, that this application be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of October, 1914.

DECISION NO. 1842.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO CHARGE TO DIAMOND MATCH COMPANY A RATE DIFFERING FROM THAT CONTAINED IN ITS SCHEDULES ON FILE WITH THE RAILROAD COMMISSION.

Application No. 1274.

Decided October 6, 1914.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that the second condition appearing in the order of September 15, 1914, in the above entitled proceeding be and the same is hereby eliminated, and that the following condition be inserted in lieu thereof:

"2. This order is made subject to the provisions of the Public Utilities Act and the powers and duties of the Railroad Commission thereunder."

As thus modified, said order of September 15, 1914, shall remain in full force and effect.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of October, 1914.

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Decision No. 1843.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE THREE YEAR SIX PER CENT NOTES.

Application No. 1303.

Decided October 6, 1914.

Applicant, Western States Gas and Electric Company, applying for permission to issue $900,000.00 face value of notes, authorized to issue notes of the face value of $731,000.00, to be sold at not less than 92½, proceeds to be used in taking up outstanding notes, in payment of certain items on open account, the balance for additions and betterments to present system. Application to issue notes to secure $120,000.00 as working capital denied without prejudice, pending more detailed information as regards this particular item.

Allen Chickering, for Applicant.

Report of the Commission.

Loveland, *Commissioner*.

Western States Gas and Electric Company, operating in Stockton, Eureka and Richmond, California, filed its application herein on August 29, 1914, asking authority to issue $1,050,000.00 of its 6 per cent three year notes. Subsequently applicant modified its request to an issue of $900,000.00 of notes.

It is proposed by applicant to issue these notes under an indenture providing for a total issue of $1,500,000.00. The notes are to be secured by an indenture providing that no additional mortgage shall be placed upon the properties of Western States Gas and Electric Company which does not give participation to the notes therein proposed to be issued. The notes are to be dated October, 1914, and to mature October, 1917. They will be callable September 1, 1916, at 101 per cent, and at any interest payment date thereafter at 100½ per cent of the principal.

The indenture provides for an issue of $900,000.00 of notes forthwith. It further provides that the remaining $600,000.00 of notes shall be issued only when the earnings of the company, after the payment of bond interest, are three times the interest required for the notes outstanding and such new notes as the company may propose to issue.

At the hearing in this case applicant submitted a statement to the effect that its net earnings for the fiscal year ending June 30, 1914, amounted to approximately $239,387.09.

It appears that the applicant herein, under the terms of its mortgage, may issue bonds for only 75 per cent of the cost of additions and betterments. The remaining 25 per cent has been financed to a large extent through short term notes now appearing in the form of a floating indebtedness.

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Applicant proposes to sell the $900,000.00 of notes at 92½ per cent of par and proposes to apply the proceeds as follows:

Payment of floating indebtedness	$509,000 00
Payment of open accounts	31,387 65
Additions and betterments to applicant's property during the second half period of the calendar year 1914	135,000 00
Working capital	120,000 00
Total	$795,387 65

Applicant's proposal to issue notes for the purpose of working capital depended to a large extent upon suspense items, the exact status of which has not been determined to my complete satisfaction. I shall therefore deny the portion of the application pertaining to the working capital without prejudice. The applicant may at some future time bring this matter before the Commission with greater detail, for consideration.

The new construction for which the applicant proposes to use the proceeds from the notes, includes a new street lighting system for Stockton, and general construction work in Richmond and Eureka.

I recommend that the application be granted as to the issue of these notes to take care of applicant's floating indebtedness, open accounts, and for construction purposes during the second half of the year 1914.

I therefore submit the following form of order:

ORDER.

Western States Gas and Electric Company having applied for authority to issue $900,000.00 of three year 6 per cent promissory notes under the terms of the indenture filed with this Commission and marked "Exhibit 3,"

And a hearing having been held and it appearing that the purposes for which applicant proposes to issue $731,000.00 of said notes are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Western States Gas and Electric Company be given authority and it is hereby given authority to issue $731,000.00 of its three year 6 per cent promissory notes under the terms of its trust indenture executed between Western States Gas and Electric Company and Guaranty Trust Company of New York and William C. Cox, a copy of which has been filed by the applicant herein in connection with this application and marked "Exhibit 3," to which reference is hereby made.

The authority herein given is given upon the following conditions and not otherwise:

(1) Applicant shall sell the notes herein authorized to be issued at a price not less than 92½ per cent of the face value, plus accrued interest.

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(2) The proceeds from the sale of said notes shall be used by the applicant for the following purposes:

(a) Payment of floating indebtedness as follows:

No.	Date	Due	Rate	Payee	Amount
29	5-23-13	On demand	6 %	Seaboard National Bank	$11,000 00
60	4-13-14	8-13-14	4½%	H. M. Byllesby & Company	15,000 00
62	12-10-13	11-10-14	7 %	Standard Gas and Electric Co.	1,000 00
65	5- 1-14	7-29-14	6 %	Standard Gas and Electric Co.	100,000 00
66	6- 1-14	5- 1-15	7 %	W. S. G. and E. Co. of Delaware	232,100 00
67	6- 1-14	5- 1-15	7 %	W. S. G. and E. Co. of Delaware	108,900 00
71	12-10-13	11-10-14	7 %	Standard Gas and Electric Co.	11,000 00
72	6-11-14	12-11-14	6 %	H. M. Byllesby & Company	5,000 00
73	6-11-14	12-11-14	6 %	H. M. Byllesby & Company	10,000 00
74	6-11-14	12-11-14	6 %	H. M. Byllesby & Company	15,000 00
Total					$509,000 00
(b) For the payment of applicant's open account to Standard Gas and Electric Company					31,386 65
(c) For additions and betterments to applicant's plant, in accordance with a summary of said list of additions and betterments filed by Western States Gas and Electric Company and marked "Exhibit 2," excluding $10,000.00 for preliminary work on a new unit on the American River plant, which applicant has decided to postpone					135,000 00
Total					$675,386 65

(3) Before applicant shall expend any of the proceeds of the notes herein authorized to be issued for additions and betterments to its properties, it shall file with this Commission a detailed statement of such additions and betterments.

(4) Western States Gas and Electric Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the notes hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein given shall apply to such notes as shall have been issued on or before June 30, 1915.

(6) The authority herein given is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of October, 1914.

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Decisions Nos. 1844, 1845, 1846, 1847, grade crossings; not printed. See end of volume.

DECISION NO. 1848.

SALINAS CITY

vs.

COAST VALLEYS GAS AND ELECTRIC COMPANY.

Case No. 495.

Decided October 6, 1914.

Defendant's petition for a rehearing in the above entitled case denied, provided that defendant may submit additional evidence as regards the cost of street lighting in Salinas, and, if such evidence warrants, a modification of the previous order will be made; also that defendant is not obligated to maintain the rate of depreciation allowed by the Commission in its previous order; that if the depreciation heretofore maintained has been found to be adequate it may be continued until further order of the Commission.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

OPINION ON APPLICATION OF DEFENDANT FOR REHEARING.

Coast Valleys Gas and Electric Company, defendant in the above entitled case, has filed herein its petition for a rehearing. In support of its petition the company claims that the decision herein is in error in the following matters:

1. That the Commission did not make sufficient allowance for going value and the cost of rights, capital and organization.

2. That the rates fixed by the Commission will not yield sufficient revenue, and that under said rates the earnings of all electric properties of petitioner, as calculated for the year ending July 31, 1914, will be approximately $15,000.00 less than the cost of service for that year.

3. That the rate fixed for street lighting by means of arc and incandescent lamps is lower than it should be.

It is also claimed that the Commission's allowance for depreciation is considerably in excess of the amount which petitioner is setting up for that purpose and will result in a reduction of petitioner's net earnings by approximately $6,000.00 per year.

I shall consider the points raised by petitioner in the order named:

First—Going concern value and all other intangible items mentioned by petitioner were very carefully considered in the decision herein. I am convinced that nothing can be gained by going into the matter again at this time. The basis of return used by the Commission was exceedingly liberal upon the evidence introduced, as is shown by the fact that petitioner was allowed to earn upon some $25,000.00 in excess the *full reproduction value new* of the physical elements of the property,

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notwithstanding the fact that the depreciated reproduction value or so called "present value" of the physical property would probably not exceed 85 per cent of the value new.

Second—Petitioner supports its contention that the rates fixed by the Commission are too low by certain arbitrary computations wherein the basis of return is that used by the Commission for the year following the establishment of the rates fixed. In this manner it is at once obvious that not less than $27,000.00 was included by petitioner, which should have been excluded in computations based on the year ending July 31, 1914. It is also apparent that interest on an additional $28,000.00 should have been figured on the average investment for a period of seven months. In arriving at the alleged deficit, petitioner has entirely disregarded the credit of $10,155.35 due the electric department for inter-company use of electric energy during the period assumed and has taken the Commission's increased allowance for the cost of operation instead of the actual expenses as shown by petitioner's records. If the fixed expenses and operating expenses are recalculated on the basis of the actual amounts expended for the year ending July 31, 1914, using the actual average depreciation set up by petitioner for the two years preceding that time, it will be found that the net earnings, after making due allowance for interest at 8 per cent, will exceed $2,000.00. However, the value of calculations on this basis is relatively small in this case, wherein the Commission has fixed rates to be charged by petitioner for residence, commercial and street lighting in Salinas City alone, and not in any other portion of the territory served by defendant. While it is true that, in arriving at the rates to be charged in Salinas, the Commission considered the entire investment of petitioner in properties devoted to electric service, it is also true that the Commission's order is effective only as to rates in that community. It may be possible that, in investigations involving other territory, it will be found that the rates fixed in this case are either too high or too low, and it is also possible that the Commission may find it necessary to revise petitioner's power rates and the rate charged to the Monterey and Pacific Grove Railway Company, a subsidiary corporation. After a further careful review of the case, I am convinced that the rates established for service within the city of Salinas are fair and reasonable and that there is no just ground for a rehearing as to such rates.

Third—Petitioner's contention as to the rates for street lighting impresses me more strongly than does any other point urged in the application. While neither the evidence introduced in this case nor the information contained in the petition justify reopening the case in order to determine the merits of petitioner's claims as to the street lighting rate fixed by the Commission in Salinas, petitioner may within

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ten days from the date hereof submit additional information bearing on the cost of this service, and if upon further investigation it appears that a modification should be made in the rate established by the Commission for this service, either as to the form or as to the revenue required, the Commission will gladly issue a supplemental order directing that such modification be made.

In regard to the Commission's allowance for depreciation, I desire to say that in making this allowance it was not the intention of the Commission to direct petitioner to increase the amount which is found to be adequate for replacements which become necessary to properly and efficiently operate its properties. It is the duty of a public utility to keep its operating property in the highest state of efficiency consistent with economical operation and with due regard to the character of the service supplied by it. This is accomplished by proper expenditures for maintenance or current repairs and by such replacements as may become necessary from time to time. To provide for the latter it is essential that a sufficient depreciation reserve shall be maintained at all times. However, the Commission is not inclined to create any undue burden upon any public utility by requiring that a depreciation reserve, larger than that which experience has proven adequate, be set up. It may be that in this case the amount allowed by the Commission is more than is necessary. The Commission was anxious to allow an amount sufficiently high for this item. If defendant is convinced that the amounts at present being set up by it for depreciation are sufficient, defendant may continue to set aside these amounts, though less than those allowed in the Commission's computations, until the further order of the Commission.

After careful consideration I can find no reason, at this time, for a change in the order heretofore made in this case. I recommend that the application be denied, with the understanding that in the event that further investigation warrants a change in the rates fixed for street lighting, a supplemental order may be made directing such modification. If after trial for a reasonable time, say a year, defendant finds that the rates prescribed are not just and reasonable, defendant may make application to the Commission for a modification thereof.

ORDER.

Defendant in the above entitled case having filed its petition for rehearing, and careful consideration having been given thereto, and the Commission finding that there exists no just ground for a rehearing in this case,

It is hereby ordered that said petition be and the same is hereby denied.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of October, 1914.

DECISION No. 1849.

IN THE MATTER OF THE APPLICATION OF PACIFIC POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES OF THE FACE VALUE OF SEVENTY-SIX THOUSAND DOLLARS.

Application No. 1265.

Decided October 6, 1914.

Applicant, Pacific Power Company, authorized to issue notes of the face value of $76,000.00, said notes to be issued at their face value in lieu of notes of a like amount heretofore issued without the authorization of the Commission, proceeds of which were used in addition to present system.

Delos A. Chappell, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for an order authorizing the issue of promissory notes of the face value of $76,000.00 in lieu of notes of the same face value heretofore issued without the Railroad Commission's authorization.

Applicant owns and operates a hydroelectric plant having an installed capacity of 3,000 kilowatts, located on Mill Creek, in Mono County. A small amount of the electric energy generated by applicant is distributed in and about Bodie, California, but the major portion of the energy is transmitted into Nevada and there distributed in mining communities.

On March 18, 1912, applicant's directors made arrangements with Delos A. Chappell, L. C. Phipps, James H. Causey and M. D. Thatcher to borrow from them the sum of $100,000.00, to be used in part to pay off floating indebtedness and in part to build a dam at the mouth of Lundy Lake. Notes to represent the sum so loaned were issued by applicant on April 17, 1912, subsequent to the effective date of the Public Utilities Act, in denominations of $1,000.00 each. Of these notes, 24 were for the period of one year and 76 for the period of two years. Under the provisions of section 52 of the Public Utilities Act, the 76 notes are absolutely void, for the reason that their term is in excess of twelve months and the Railroad Commission's authority for their issue was not first secured. These notes were issued in ignorance of the law and with no intention to violate the law.

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Applicant now asks authority to issue new notes for $76,000.00, in lieu of those heretofore illegally issued. A public hearing on this application was held in Los Angeles on September 30, 1914. I find that the purposes for which the moneys so borrowed were used are not reasonably chargeable to operating expenses or to income, and recommend that the application be granted.

I submit the following form of order:

ORDER.

Pacific Power Company having applied to the Railroad Commission for an order authorizing the issue of 76 promissory notes of the face value of $1,000.00 each, bearing interest at the rate of 7 per cent per annum, payable two years after date, payable as to 19 notes to M. D. Thatcher or order, as to 38 notes to Delos A. Chappell or order, and as to 19 notes to L. C. Phipps or order, in lieu of 76 notes of the same face value heretofore illegally issued, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which the proceeds of the notes which were illegally issued were used were not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that said application be and the same is hereby granted, subject to the following conditions and not otherwise:

1. Pacific Power Company shall issue the 76 new notes at face value, but only after the 76 outstanding illegal notes have been called in and cancelled, and in lieu thereof.

2. Pacific Power Company shall report to the Railroad Commission the fact of the issue of the new notes and the purposes for which issued, within ten days after their issue.

3. The order herein shall apply only to such notes as may be issued on or before January 1, 1915.

4. The order herein shall not become effective until applicant has paid the fee specified by section 57 of the Public Utilities Act, as amended.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of October, 1914.

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Decision No. 1850.

THOMAS MONAHAN, AS MAYOR OF CITY OF SAN JOSE,

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 477.

IN THE MATTER OF RATES, SERVICE AND EXTENSIONS OF PACIFIC GAS AND ELECTRIC COMPANY IN ITS SAN JOSE DISTRICT, ON THE COMMISSION'S OWN INITIATIVE.

Case No. 550.

Decided October 6, 1914.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

OPINION ON REQUEST FOR REHEARING.

Pacific Gas and Electric Company has filed in the above entitled proceedings its petition for rehearing, in which petition numerous reasons are urged why a rehearing should be granted. In my opinion, the matters urged are of sufficient importance to justify further investigation. I accordingly recommend that these cases be set down for further hearing, and submit the following form of order:

ORDER.

It is hereby ordered that the above entitled cases be set before Commissioner Thelen for Wednesday, November 25, 1914, at 10 o'clock a. m., in the office of the Railroad Commission, 833 Market street, San Francisco, California, at which time and place evidence and argument may be presented on the question whether a rehearing should be granted. Until a decision is reached on such evidence and argument, the order heretofore made on August 28, 1914, in the above entitled cases shall be suspended.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of October, 1914.

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Decision No. 1851.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE EXECUTION OF A DEED OF TRUST OR MORTGAGE AND THE ISSUE OF BONDS OF THE FACE VALUE OF FOUR MILLION SEVEN HUNDRED AND FORTY-EIGHT THOUSAND DOLLARS.

Application No. 1206.

Decided October 6, 1914.

Applicant applies for permission to issue bonds of the face value of $4,748,000.00 and to execute a new deed of trust covering all of its property securing same, and it appearing that the amount of bonds desired to be issued would be over 84 per cent of the total value of applicant's property, applicant authorized to issue bonds of the face value of $4,497,000.00 to be sold at not less than 85, proceeds to be used to redeem present outstanding bonds, to liquidate a certain note, to reimburse treasury for moneys expended for purposes properly capitalizable and for additions and betterments to system, provided that no bonds shall be issued for any purposes, excepting refunding, until all of such bonds proposed to be refunded shall have been returned and canceled. Applicant also authorized to execute a new deed of trust securing a maximum issue of $10,000,000.00 face value of general first lien bonds.

Harry L. Titus and *Read G. Dilworth*, for Applicant.

Report of the Commission.

Thelen, *Commissioner.*

This is an application for authority to execute a new deed of trust or mortgage and to issue bonds of the face value of $4,748,000.00, and to use the proceeds for the purposes hereinafter specified. A public hearing was held in San Diego on September 29, 1914.

San Diego Electric Railway Company was incorporated on November 30, 1891, under the laws of California, with an authorized capital stock of $250,000.00. The amount of capital stock so authorized was increased by amendment to the articles of incorporation, on February 11, 1908, to 50,000 shares of the total par value of $5,000,000.00. Of the stock so authorized, 600 shares of the total par value of $600,000.00 have been issued as fully paid, and 44,000 shares of the total par value of $4,400,000.00 were issued for a stock dividend of $650,000.00, thus leaving the amount of $3,750,000.00 still unpaid by the present owners of the stock. All the stock, except a few shares held by directors, is owned by J. D. Spreckels and Brothers Company.

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Dividends on the capital stock have been paid as follows:

Date	Amount of dividend	Per cent on capital stock	Paid in
September 11, 1908	$650,000 00		Capital stock
December 15, 1909	50,000 00	4	Cash
December 30, 1910	50,000 00	4	Cash
December 29, 1911	75,000 00	6	Cash
December 30, 1912	75,000 00	6	Cash
December 30, 1913	100,000 00	8	Cash
	$1,000,000 00		

Applicant has an authorized bond issue of $5,000,000.00, 5 per cent bonds, dated December 10, 1908, and maturing on January 2, 1934. Of the bonds so authorized, $2,000,000.00 have been issued, of which amount $375,000.00 have been retired, leaving $1,625,000.00 outstanding.

Applicant's other indebtedness as of April 30, 1914, was as follows:

Notes payable (Six months' note given to J. D. and A. B. Spreckels Securities Company on March 31, 1914.)		$574,406 75
Accounts payable		164,363 36
Accrued liabilities not due—		
Franchise tax, city of San Diego	$5,878 52	
Franchise tax, county of San Diego	38 09	
Bond interest	27,083 32	
		32,999 93
Total		$771,770 04
Less current assets (June 30, 1913)		135,342 69
Net indebtedness		$636,427 35

Applicant's property consists of a system of electric street railroad running on and along certain streets and rights of way in the city of San Diego and the immediate adjoining territory, the city of East San Diego, and the city of Coronado. It owns, according to the petition herein, trackage as follows:

Single track	38.42 miles
Second track	22.19 miles
Sidings and turnouts	2.78 miles
Total	63.39 miles

Applicant now asks authority to execute a new deed of trust or mortgage to Union Trust Company of San Francisco as security for an issue of $10,000,000.00, face value, of general first lien five per cent forty-year sinking fund gold bonds, in substantially the form attached to the petition herein and marked Exhibit "D," and to issue bonds of said authorization of the face value of $4,748,000.00, at not less than 85 per

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cent of their face value, and to use the proceeds thereof for the following purposes:

(*a*) To redeem the present outstanding bonds of the face value of $1,625,000.00, bonds of the face value of	$1,911,764	00
(*b*) To liquidate and refund note for $574,406.73, bonds of the face value of	675,772	00
(*c*) To return to income the sum of $302,438.26, spent in betterments, improvements and extensions properly chargeable to capital account, bonds of the face value of	355,809	00
(*d*) To defray the expense of making necessary additions and betterments and of acquiring necessary additional property amounting to $1,532,957.00, bonds of the face value of	1,803,478	00
Total	$4,746,823	00

Applicant still has in its treasury unsold bonds of the present issue of the face value of $3,000,000.00, but contends that this amount is insufficient to meet the expenditures now under way and contemplated for the near future. In this connection, and as explanation of the reason for executing a trust deed to secure a possible issue of $10,000,000.00 of bonds, applicant presented a list of contemplated expenditures, which list must be taken as representing rather purposes for which money may possibly eventually be expended, than purposes for which applicant intends in the immediate future actually to make expenditures. It seems clear, however, that the present authorized issue of $5,000,000.00 of bonds is not large enough for any considerable period of time, and equally clear that the bonds now outstanding and the trust deed securing the same should be cancelled so as to make all the bonds of the proposed new issue a first lien on the property. At the same time, it seems most unfortunate if, in order to clear away the outstanding bonds amounting to $1,625,000.00, it is necessary to issue to the owners thereof bonds of the new issue amounting to $1,911,764.00, an increase of $286,764,00, face value of bonds, without a single dollar's additional value to the property, at least in so far as this transaction is concerned. This means an additional interest charge of $14,338.20 each year, added to the existing interest charge, without the creation of additional value in the property. The outstanding bonds are all owned by the Spreckels interests. While I can not well avoid recommending that this portion of the application be granted, so as to clear the way for the issue of the bonds necessary for extensions and improvements, if the owners of the existing bonds will not part with them on any other condition, I suggest to the Spreckels interests that they give serious consideration to the question whether they can not see their way clear to exchanging their present bonds for the new bonds, bond for bond, without asking for the additional bonds hereinbefore referred to. In this way, a considerable margin of bonding capacity would be saved for future extensions and improvements.

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The note for $574,406.73 is held by J. D. and A. B. Spreckels Securities Company, and represents moneys advanced by them for construction properly chargeable to capital account.

The sum of $302,438.26 represents moneys paid from income during five years prior to April 30, 1914, for items properly chargeable to capital account.

The details of the total of $1,532,957.00 which applicant desires to expend for construction and permanent improvements up to December 31, 1914, appear in Exhibit "C–3," attached to the petition herein. The summary thereof is as follows:

Grading	$27,053 00
Ballast	133,015 00
Track construction	288,489 00
Paving	254,254 00
Bridges	70,420 00
Distribution system, trolley lines and track bonding	36,966 00
Distribution system feeder system	67,197 00
Power plant building	125,000 00
Car houses	84,135 00
Stations	18,375 00
Power plant equipment	35,000 00
Park and resort property	5,000 00
Cars	388,053 00
	$1,532,957 00

It becomes important to examine the relationship between the value of the property and the total face value of the bonds which would be outstanding if the present application were granted.

Mr. E. J. Burns, applicant's efficiency superintendent, testified that the book cost of the operative property, as of June 30, 1914, was $4,100,751.47, and that the total cost of both operative and nonoperative property on the same day was $4,107,404.14. The sum of money still to be expended on capital account prior to December 31, 1914, out of the proceeds of the bonds which it is now desired to issue, is $1,094,461.55. The total book cost as of December 31, 1914, would accordingly be $5,201,865.69.

Mr. A. Ervast, applicant's chief engineer, testified to an estimated reproduction cost, new, and a depreciated reproduction cost, subject to check, and possible future corrections, as follows, as of June 30, 1914:

Estimated reproduction cost	$4,939,362 20
Estimated depreciated reproduction value	4,835,780 31

Mr. Richard Sachse, the Railroad Commission's acting chief engineer, presented a report prepared by the Commission's engineering depart-

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ment, showing an estimated reproduction value, new, and depreciated reproduction value as of June 30, 1914, as follows:

Estimated reproduction cost of operative property	$4,731,408 97
Estimated depreciated reproduction cost of operative property	4,344,797 63
Add non-operative property	149,907 00
Total	$4,494,704 63
Mr. Sachse estimated that the total amount necessary to complete the work outlined in the petition herein is	1,126,694 00
Thus giving on this basis a total value of the property when the proceeds of the bond money have been expended of	$5,621,398 63

The amount of bonds which it is now intended to issue, being $4,748,000.00, is over 84 per cent of the entire value of the property on the last basis here shown. Applicant agreed at the hearing that the amount now asked for should be reduced so as not to exceed 80 per cent of the value of the property on the basis last indicated, or a total of $4,497,000.00. If it should hereafter appear, after a more thorough investigation has been made into the valuations thus presented, that the value of the property is in excess of the basis last stated, applicant may apply for authority to issue additional bonds if it can show a necessity for the issue thereof. The Railroad Commission will set a hearing on the question of the value of the property of applicant, as provided in section 47 of the Public Utilities Act, and at the same time and place a further hearing in the present proceeding will be set, if desired by applicant.

An investigation into the question of applicant's ability to pay interest and sinking funds on the additional bonds now to be issued reveals revenues and expenses for the year ending June 30, 1914, as follows:

Total revenue		$1,023,831 85
Total operating expenses and depreciation		729,326 24
Net revenue		$294,505 61
Miscellaneous revenue		334 67
Total net revenue		$294,840 28
Miscellaneous reductions—		
Taxes	$61,808 28	
Amortization of franchises	2,089 02	
Interest on bonds	83,125 00	
Miscellaneous interest	17,849 12	
		164,871 42
Net income		$129,968 86

The net income for the years immediately preceding was as follows:

Year ending June 30, 1910	$132,967 28
Year ending June 30, 1911	150,536 16
Year ending June 30, 1912	208,338 14
Year ending June 30, 1913	191,043 29

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A material portion of the construction expenditures now being incurred by applicant will produce additional revenue, especially in connection with the San Diego Panama-California Exposition, which will be held in San Diego in 1915. Applicant undertakes in its new trust indenture to pay into the sinking fund amounts increasing from $100,000.00 annually during the years 1916 to 1920, inclusive, to $350,000.00 annually during the years 1946 to 1955, inclusive. I believe that it is reasonably safe to assume that the property will be able to meet these obligations, although it may be necessary at times to decrease or omit dividends on the stock.

As the property is now to be bonded up to nearly the usual margin of safety, applicant will be obliged to consider means to secure the funds to take care of the difference between the actual cost of the capital expenditures hereafter to be incurred and the face value of such bonds as may reasonably issue against such expenditures.

Applicant asks that it be authorized to sell its bonds at 85 per cent of their face value and states that the war in Europe has interfered with their sale at a better price. While this minimum price will be authorized, applicant will, of course, seek to secure as high a price as possible for its bonds.

I find that the purposes for which it is proposed to issue the bonds herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and recommend that the application be granted, subject to the conditions specified in the order.

I submit herewith the following form of order:

ORDER.

San Diego Electric Railway Company having applied to the Railroad Commission for an order authorizing the execution of a deed of trust or mortgage to Union Trust Company of San Francisco to secure a possible maximum issue of $10,000,000.00 of 5 per cent forty-year general first lien sinking fund gold bonds, and for an order authorizing the issue of said bonds of the face value of $4,748,000.00, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which the proceeds of the bonds herein authorized to be issued are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. San Diego Electric Railway Company is hereby authorized to execute to Union Trust Company of San Francisco, as trustee, its deed of trust or mortgage in substantially the form attached to the petition herein and marked Exhibit "D," to secure a possible maximum issue of $10,000,000.00 general first lien sinking fund gold bonds, to be payable January 1, 1955, and to bear interest from January 1, 1915, at the rate of 5 per cent per annum, payable semiannually on the first

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day of January and the first day of July in each year, and to issue $4,497,000.00 face value of said bonds, on the following conditions and not otherwise, to wit:

2. San Diego Electric Railway Company shall sell said bonds so as to net in cash not less than 85 per cent of their face value, together with accrued interest.

3. San Diego Electric Railway Company shall use the proceeds from the issue of said bonds only for the following purposes, it being understood that in no event shall the face value of the bonds issued exceed $4,497,000.00, and that no bonds may issue for any purpose except refunding until all bonds now outstanding have been returned to the company's treasury and cancelled, and until the present deed of trust or mortgage has been cancelled of record:

(*a*) To redeem the present outstanding bonds of the face value of $1,625,000.00, bonds not to exceed the face value of	$1,911,764 00
(*b*) To liquidate and refund note for $574,406.73, bonds not to exceed the face value of	675,772 00
(*c*) To return to income the sum of $302,438.26, spent in betterments, improvements and extensions, bonds not to exceed the face value of	355,809 00
(*d*) To defray the expense of making necessary additions and betterments and acquiring necessary additional property amounting to $1,532,957.00, as set forth in Exhibit C-3 filed with the petition herein, bonds not to exceed the face value of	1,803,478 00

4. San Diego Electric Railway Company shall keep separate, true, and accurate accounts, showing the receipt and application in detail of the proceeds of the sale of said bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or disposition of such bonds during the preceding month, the terms and conditions of such sale or other disposition, the numbers of the bonds disposed of, the moneys realized therefrom and the use and purpose to which they are put.

5. San Diego Electric Railway Company shall file with the Railroad Commission a certified copy of the deed of trust or mortgage herein authorized to be executed.

6. The authority herein given to issue bonds shall not become effective until applicant has paid the fee specified in section 57, as amended, of the Public Utilities Act.

7. The authority hereby given to issue bonds shall apply only to bonds issued on or before October 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of October, 1914.

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Decision No. 1852.

IN THE MATTER OF THE APPLICATION OF HUMBOLDT TRANSIT COMPANY FOR AUTHORITY TO ISSUE AND PLEDGE FIFTY THOUSAND DOLLARS OF ITS FIRST MORTGAGE BONDS.

Application No. 1359.

Decided October 8, 1914.

Applicant authorized to issue bonds of the face value of $50,000.00 to be pledged as security for a bond required pending an appeal to the Supreme Court of a case decided against applicant; provided, that said bonds will be returned to applicant's treasury upon the termination of said suit.

Carter P. Pomeroy, for Applicant.

Report of the Commission.

Gordon, *Commissioner.*

This is an application by Humboldt Transit Company for authority to issue and pledge $50,000.00 of its first mortgage 5 per cent thirty-year bonds with the Pacific Coast Casualty Company. Applicant operates a street railroad in the city of Eureka, Humboldt County. On August 14, 1914, in an action entitled *Gwyneddc A. Tower, an infant, by Morton L. Tower, her guardian ad litem,* plaintiff, vs. *Humboldt Transit Company, a corporation,* defendant, the superior court of Humboldt County rendered judgment against the applicant herein in the sum of $20,000.00, and $178.35, costs. The applicant desires to appeal to the Supreme Court of the State of California, and, pending such appeal, to stay execution, it is required to file a bond with the superior court in the sum of $40,500.00. In order to obtain this bond it is necessary for the applicant to indemnify the surety company. Accordingly, applicant proposes to pledge $50,000.00 of its first mortgage bonds with Pacific Coast Casualty Company as collateral security for the bond which the said casualty company will furnish.

Applicant stated that if the judgment be affirmed, the judgment will be paid by the stockholders of the corporation and the bonds returned to the treasury. In any event, the bonds are merely to be hypothecated temporarily, and are to be returned to applicant's treasury.

Under all circumstances in this case I recommend that the application be granted and submit the following form of order:

ORDER.

Humboldt Transit Company having applied to this Commission for permission to issue and pledge $50,000.00 of its first mortgage 5 per cent sinking fund thirty-year bonds to the Pacific Coast Casualty Company, as outlined in the opinion herein, and a hearing having been held,

It is hereby ordered that Humboldt Transit Company be given au-

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thority and it is hereby given authority to issue and pledge $50,000.00 of its first mortgage 5 per cent sinking fund thirty-year bonds to the Pacific Coast Casualty Company.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The bonds herein authorized to be pledged shall be pledged to the Pacific Coast Casualty Company only for the purpose of indemnifying said surety company for a bond to be furnished by said surety company to be filed with the superior court of Humboldt County to stay execution of the judgment in the action entitled *Gwynedde A. Tower, an infant, by Morton L. Tower, her guardian ad litem,* plaintiff, vs. *Humboldt Transit Company, a corporation,* defendant.

2. Humboldt Transit Company shall within ten days file a statement in writing with this Commission that when the damage case heretofore referred to of *Gwynedde A. Tower* shall have been decided by the Supreme Court of the State of California, it will take necessary steps to satisfy said judgment, if the judgment be adverse to the applicant herein, and will thereupon obtain the release of the bonds herein authorized to be pledged, and return said bonds to its treasury.

3. The authority herein given shall apply to such bonds as shall have been pledged to Pacific Coast Casualty Company on or before December 31, 1914.

4. The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

5. The applicant herein shall report within thirty days such action as it may take under the order herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1914.

DECISION No. 1853.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-WESTERN RAILROAD AND NAVIGATION COMPANY FOR AUTHORITY TO ISSUE SEVEN HUNDRED FIFTY THOUSAND DOLLARS OF BONDS.

Application No. 1335.

Decided October 8, 1914.

Applicant, California Western Railroad and Navigation Company, authorized to issue bonds of the face value of $750,000.00, bearing interest at 6 per cent, and also $100,000.00 face value of bonds heretofore issued without the Commission's authorization. Bonds of the face value of $750,000.00 to be sold so as to net

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applicant not less than 97½, proceeds to be used to refund outstanding bonds, including the $100,000.00 face value herein authorized and to discharge floating indebtedness in the sum of $327,000.00.

Charles A. Strong, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

California-Western Railroad and Navigation Company operates a line of railroad between Fort Bragg and Willits, Mendocino County, a distance of 39.55 miles, with a branch of 3.22 miles. It has issued 10,000 shares of stock of the par value of $100.00 per share, or a total par value of $1,000,000.00. Applicant has outstanding at the present time an issue of first mortgage bonds, which will mature in January, 1915, in the sum of $423,000.00. In addition, applicant has a floating indebtedness, given in round numbers at this time at $500,000.00. Of this indebtedness, $450,000.00 is due the Union Lumber Company, which controls all of applicant's stock.

Applicant now proposes to issue bonds in the sum of $750,000.00, and to use the proceeds for the purpose of retiring outstanding bonds in the sum of $423,000.00, and to apply the balance in the sum of $327,000.00 toward the discharge of its indebtedness on open account to the Union Lumber Company.

The railway owned by California-Western Railroad and Navigation Company passes through a rich timber belt. The timber tract which it traverses is owned by the Union Lumber Company and other lumber companies.

The lumber is carried to Fort Bragg and thence shipped by boat to destination, or is transported to Willits and thence to points in California or the Eastern States. It appears that from 96 to 98 per cent of the freight revenue is derived from hauling timber products. Mr. C. R. Johnson, one of the directors of applicant, testified that in his belief sufficient lumber was available to supply the road for the next fifty years.

For the year ending June 30, 1914, applicant reports earnings and expenditures as follows:

Operating revenue	$265,376 21	
Operating expense	166,656 54	
Net operating revenue		$98,718 67
Outside Operations:		
Revenue	$346 25	
Expenses	169 56	
Net		176 69
		$98,896 36
Taxes		10,727 90
Railway income		$88,168 46

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Non-operating Revenues:		
Rent	$1,103 20	
Net profit miscellaneous physical property	536 64	
Income from securities owned	17,843 50	
Accretions to sinking fund	1,562 67	
Miscellaneous	07	
Total non-operating revenue		21,046 08
Gross corporate income		$109,214 54
Deductions:		
Rent for hire of equipment	$2,065 50	
Bond interest	36,000 00	
Other interest	20,948 58	
Amortization of funded debt	2,935 43	
Miscellaneous	186 25	
Total deductions		62,135 76
Surplus to profit and loss		$47,078 78

In Decision No. 1185 upon Case No. 167, in the matter of ascertaining the value of the property of California-Western Railroad and Navigation Company, this Commission issued findings reporting the "reproduction value" of the properties of applicant, as of June 30, 1912, to be $1,724,900.05, and the "present value" (as that term is defined in the reports of this Commission), as of June 30, 1912, in the sum of $1,584,764.77.

Applicant proposes to issue its bonds under the terms of a trust deed to the Anglo-California Trust Company of San Francisco to be dated October, 1914, which will provide for a total issue of $750,000.00 of first mortgage bonds to bear 6 per cent interest, payable in October, 1934. The trust deed provides for a sinking fund of $15,000.00 per year, payment beginning October 1, 1916. Bonds issued under the trust deed are redeemable at 102 per cent of the face value.

It appears that the indebtedness of applicant to the Union Lumber Company was incurred for advances made by the lumber company for additions and betterments to the railroad.

It now appears that the total indebtedness of California-Western Railroad and Navigation Company amounts to $923,000.00. It is proposed to refund $750,000.00 of this amount by the issue of the bonds herein applied for. The remaining $173,000.00 will represent indebtedness to the Union Lumber Company, which indebtedness it is proposed to extinguish by the transfer to the Union Lumber Company of non-operative real estate now owned by the railroad company. If this plan is consummated and the bonds for which application is now made are issued, the applicant will have an indebtedness of only $750,000.00. This will represent approximately 50 per cent of the "present value"

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of the properties as found in Decision No. 1185 of this Commission. It appears also that applicant has ample earnings to pay the interest upon its bonds and sinking fund charges proposed by the mortgage.

It is proposed by the applicant to sell the bonds to the Union Lumber Company at a price not less than 97½ per cent of the par value, the lumber company contemplating a resale of all or a portion of the issue.

It appears from an examination of applicant's accounts that $100,000.00 of bonds outstanding were issued subsequent to March 23, 1912, without the approval of this Commission, but without intent to violate the provisions of the Public Utilities Act. As these bonds are to be refunded before the first of the year, the order of the Commission will give its approval as to the $100,000.00 of bonds previously issued without proper sanction.

I recommend that the application be granted and submit the following form of order:

ORDER.

California-Western Railroad and Navigation Company having applied to this Commission for authority to issue $750,000.00 of its first mortgage 6 per cent twenty-year bonds under its proposed mortgage and deed of trust to the Anglo-California Trust Company of San Francisco, to be dated October, 1914, and it appearing that the purposes for which it is desired to issue said bonds are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that California-Western Railroad and Navigation Company be given and is hereby given authority to issue $750,000.00 of its first mortgage 6 per cent twenty-year bonds under its proposed mortgage and deed of trust to the Anglo-California Trust Company of San Francisco, dated October, 1914.

It is further ordered that California-Western Railroad and Navigation Company be given authority and is hereby given authority to issue $100,000.00 of bonds to the Union Lumber Company under its mortgage and deed of trust to the Anglo-California Trust Company of San Francisco, dated January 1, 1910; these bonds to be refunded on or before January 1, 1915, by a portion of the $750,000.00 of bonds hereby authorized to be issued under applicant's mortgage and deed of trust to the Anglo-California Trust Company of San Francisco, dated October, 1914.

The authority herein given to California-Western Railroad and Navigation Company to issue $750,000.00 of bonds under its mortgage and deed of trust to the Anglo-California Trust Company of San Francisco, dated October, 1914, is given upon the following conditions and not otherwise:

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1. The proceeds from the sale of said bonds shall be used for the following purposes:

(*a*) To refund applicant's outstanding bonds, including the $100,000.00 of bonds herein authorized to be issued under applicant's mortgage and deed of trust to the Anglo-California Trust Company of San Francisco, dated January 1, 1910	$423,000 00
(*b*) To discharge applicant's indebtedness on open account to Union Lumber Company	327,000 00
Total	$750,000 00

2. Applicant shall sell the bonds herein authorized to be issued for a price which will net applicant not less than 97½ per cent of the face value of said bonds, plus accrued interest.

3. The bonds herein authorized to be issued shall be issued only after applicant has received a supplemental order from this Commission approving applicant's trust deed securing said issue of $750,000.00 of bonds.

4. California-Western Railroad and Navigation Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein given shall apply to such bonds as shall have been issued on or before June 30, 1915.

6. The authority herein given is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1914.

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DECISION No. 1854.

VISALIA COOPERATIVE CREAMERY

vs.

WELLS FARGO AND COMPANY.

Case No. 602.

Decided October 6, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled proceeding having under date of October 2, 1914, made written request that the complaint be dismissed,

It is hereby ordered that the same be and it hereby is dismissed without prejudice.

Dated at San Francisco, California, this 6th day of October, 1914.

DECISION No. 1855.

CITY OF MONTEREY

vs.

THE MONTEREY COUNTY WATER WORKS.

Case No. 500.

IN THE MATTER OF THE APPLICATION OF THE MONTEREY COUNTY WATER WORKS FOR PERMISSION TO INCREASE RATES FOR WATER SERVICE.

Application No. 950.

Decided October 8, 1914.

The city of Monterey having filed a complaint alleging that the rates of defendant water company were unjust and exorbitant and petitioning the Commission to fix just and reasonable rates therefor, and the water company subsequently filing its application to increase its present rates, the two cases were consolidated, and the Commission, after a valuation of the property of defendant company, proceeded to fix just and reasonable rates for the different classes of service.

Held, The following rates established, to become effective within twenty days: A minimum payment of 90 cents, entitling consumer to 300 cubic feet, with a rate of 25 cents per 100 cubic feet for additional amounts between 300 and 1,000 cubic feet and 21 cents per 100 cubic feet for all amounts over 1,000 cubic feet. For special uses, *i. e.*, Hotel Del Monte and Monterey Presidio, 21 cents per 100 cubic feet and a rate of 3 cents per 100 cubic feet for irrigation purposes. Street sprinkling and fire hydrant rates to remain as at present, the company to install meters and service connections at its own expense.

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Held, That when a utility is obligated to deliver a commodity or perform a service either free or at a lesser rate than accorded its consumers at large, the privilege secured through such obligation should be considered and given its proper value in connection with the valuation of the utility and the service rendered, computed at the rates accorded other consumers.

Fred A. Treat and *Arthur R. Kelley*, for City of Monterey.

Richard Bayne, J. P. Langhorn and *J. P. O'Brien*, for the Monterey County Water Works.

H. G. Jorgenson, for City of Pacific Grove.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner.*

The city of Monterey filed its complaint against the rates of the Monterey County Water Works, attacking the rates as unjust and unreasonable, and asking that reasonable rates be established. Subsequently the Monterey County Water Works, hereinafter designated as the water company, filed its application asking to have its rates increased. By agreement the two proceedings were carried on together and likewise by stipulation all of the rates of this water company, both in the city of Monterey, city of Pacific Grove and elsewhere, were considered in issue in this case.

By reason of the great amount of work now before the water department of this Commission it has been impossible up to this time for that department to furnish an analysis of the technical testimony presented in this case. Such analysis is now completed and the case is ready for decision.

The rates in effect at the time these actions were instituted, together with the higher rates asked to be fixed by the water company, appear in the following table, and the Commission has reduced the present rates per thousand gallons to corresponding rates per hundred cubic feet for purposes of comparison in the discussion of the case:

District	Class of service	Present rates		Rates asked for	
		per 1,000 gallons	per 100 cubic feet	per 1,000 gallons	per 100 cubic feet
City of Monterey	Domestic	$0 36	$0 27	$0 41	$0 30¾
City of Monterey	Municipal	25	18¾	41	30¾
City of Monterey	Charity	Free		41	30¾
City of Pacific Grove	Domestic	36	27	41	30¾
City of Pacific Grove	Municipal	25	18¾	41	30¾
Miscellaneous	Domestic	36	27	41	30¾
Miscellaneous	Municipal	25	18¾	41	30¾
Del Monte	Contract	12	09	41	30¾
Presidio	Gravity	175	13⅛	41	30¾
Presidio	Pumped	275	20½	51	38¼
Lighthouse		25	18¾	41	30¾
Monterey County	Sprinkling	25	18¾	41	30¾

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It appears in the testimony that the Pacific Improvement Company, hereinafter referred to as the improvement company, is and has been at all times the owner of all the stock of the water company except qualifying shares for directors. The improvement company was incorporated in 1879, and the main purpose of the incorporation in its operation in this vicinity was to deal in real estate. In line with the general plan of the company, it built and completed, subsequent to 1879, the hotel at Del Monte and a restaurant and cottages on the site of the city of Pacific Grove. The Hotel Del Monte, when first constructed, was supplied with water from wells on the premises, which proved inadequate, and the improvement company proceeded to the construction during 1883 and 1884 of the dam on the Carmel River, the Pacific Grove reservoir and a single pipe line leading to the Hotel Del Monte. This line passed through Pacific Grove. From that time water was furnished to some consumers in Pacific Grove and to the Hotel Del Monte. Earlier in its history the improvement company purchased the Los Laureles Ranch, the delivery of water to which is one of the issues in this case. In 1905 the water utility business was incorporated by the improvement company under the name of "Monterey County Water Works," which issued 10,000 shares of stock at $100.00 par per share, all of which stock was taken by the improvement company. In 1907 a reorganization of the water company was effected and the present utility corporation, "The Monterey County Water Works," was incorporated. The capital stock authorized was 20,000 shares of the par value of $100.00 per share, all of which, excepting five shares held by individuals, is in the ownership of the improvement company.

Soon after completion of the water system supplying the Hotel Del Monte, service generally was begun within the limits of Monterey and Pacific Grove. The improvement company paid $125,000.00 for the Los Laureles Ranch, securing therefor more than 6,000 acres of land, a small irrigation ditch leading from a point near the present Carmel dam to portions of the ranch and such right to divert water from the Carmel River as was established by the ditch and the use of water. There is a charge of $75,000.00 appearing on the books of the water company which was ascribed in the report of the engineer for the water company to diversion rights, rights of way and riparian rights. The engineer states in his testimony that this includes certain small purchases and settlements covering the properties along the Carmel River that had been obtained from various individuals previous to making this charge on the books. However, the evidence establishes, to my satisfaction, that the main element of value represented by the $75,000.00 charge is covered in the purchase of the Los Laureles Ranch. As has already been noted, the improvement company paid $125,000.00 for this ranch and secured with it the 6,000 acres of land and the water

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rights attached to it. In the transfer of these rights for $75,000.00 to the water company there was retained a right to free use of water upon the 6,000 acres of the Los Laureles Ranch, which free use has been accorded and the right to it asserted by the improvement company ever since.

Subsequent to 1885 the system of the water company has grown gradually, as the population in Pacific Grove and Monterey increased. The principal expense for construction has been incurred in the building of the Clay Pits reservoir in 1892; the construction of an additional pipe line from the Clay Pits reservoir to the Pacific Grove reservoir in 1892, and the construction of a main parallel to the original Carmel pipe line from a point near the Los Laureles Ranch to the Clay Pits reservoir. This main was constructed in 1906 and 1907. The Carmel distribution system was purchased in 1913.

In addition to the free use of water to the Los Laureles Ranch, there are several other consumers along the right of way of the pipe line who likewise are given free water or water at reduced rates. Also, a contract has been entered into whereby the Hotel Del Monte and grounds receive water under a flat rate of $10,000.00 per year, which is very much less than the prevailing rate charged to the other consumers from this system.

It is the contention of the city that the water company was brought into being as a side issue and was used for the purpose of selling the property of the improvement company in Pacific Grove and elsewhere in this vicinity, and that the improvement company, the owner through stock of the water company, has actually received a return for its expenditure by an enhanced value of real estate. The abuses incident to the operation of land and water companies together have been often pointed out in other cases. The tendency, of course, always is to value the properties owned by the parties who own the water works, and in the present case admittedly a discrimination has been worked in favor of the Hotel Del Monte, and it is my opinion that a discrimination is worked in favor of the Los Laureles Ranch.

There was considerable contention in regard to the amounts of water consumed by the Los Laureles Ranch and the other users of water who make no payments; likewise, whether the amount of water consumed under these free uses, in arriving at the proper income of this company, should be considered as though paid for at the prevailing rates and then this amount deducted from the revenue actually allowed from the remaining consumers, or whether this amount of water should be considered as a payment for the rights of way and the water rights that have been obtained and be considered as representing a part of the cost of the system. In commenting upon a similar situation affecting the Cuyamaca Water Company (2. C.R.C. 464) it was pointed out that

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the necessity of that company to deliver water free to the Indian Reservation in return for a right of way was in effect a servitude upon the property and made it, by so much, the less valuable. It is my belief that when free use of any commodity is furnished in return for property used by a public utility, which free use is a continuous use, the ultimate and final value of which cannot be determined any more than the total cost of the property acquired can be determined, a value should be placed upon the property or privilege acquired by the utility independent of and not affected by the arrangement for such continuing use in payment for such property or such privilege. When such value is obtained, if the properties or the privileges involved are needful and necessary to the operation of the utility, they should be considered as a part of the total determining the entire value of the utility; then the amount of the commodity delivered or the service rendered annually under such arrangements should be computed and considered as bearing the same rate as other services of like nature in determining the total amount the utility shall be permitted to earn.

Further in this opinion will be shown an analysis of the amounts actually paid for the properties here under discussion and an endeavor will be made to supply proper valuations to be placed on the property secured in return for free water or water furnished at a reduced rate.

Valuations of the property of the water company were prepared by Hunter and Hudson for the water company, by G. Chester Brown for the city of Monterey, and by the hydraulic department of this Commission. Just as in another case affecting valuations of utility property in the city of Monterey, much to my regret, it became necessary for me to comment upon the inflated valuations urged not by the engineer making the report but by the financial engineers figuring the overhead, in this case I feel it proper that I likewise comment upon the attitude of the engineer and to compliment Mr. Hunter, engineer for the water company, for his very fair and reasonable valuation. I was impressed that while this engineer desired to secure for his company all that it could legitimately claim, yet this desire did not lead him to unreasonable loadings and exaggerations.

The following table shows the valuations found by the three engineers of the physical property:

Depreciation by—	Hydraulic Department, Railroad Commission		Water works	City
	Straight line	4 per cent sinking fund	3 per cent sinking fund	Straight line
Reproduction cost	$1,302,691 00	$1,302,691 00	$1,408,875 00	$1,155,763 00
Present value	1,040,710 00	1,196,546 00	1,319,888 00	888,754 00
Annual depreciation	19,024 00	7,732 00	10,736 00	21,091 00

The rights of way are almost inseparably combined in the report of

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the engineer for the water company. This is presented by Mr. Hunter at $114,727.00 (defendant's Exhibit 1, Table 39), and stated to be the actual cost of diversion rights, riparian rights on Carmel River, and rights of way for pipe lines. This includes the $75,000.00 transferred on the books from the improvement company for rights derived through the purchase of the Los Laureles Ranch, already discussed.

The proper cost to be assigned the riparian rights, diversion rights and rights of way is a complicated matter. *First*, there is the arbitrary charge of $75,000.00 covering a large part of these properties, a part of which was the property of the improvement company direct and a part that had been obtained by the improvement company from individuals and devoted to public use; *second*, the partial payments for these rights under cover of free water contracts; and, *third*, that a large part of the right of way of the 22-inch main was already provided through the Carmel main. Table 39, in defendant's Exhibit 1, lists a purchase of right of way for the 22-inch pipe line at the price of $338.10. This purchase is not complicated by any free water contract. It is shown on the map to be about intermediate between the Carmel dam and the town served by this company, and is shown to be in part cultivated property. It seems fair to assume the unit price established by this purchase as a fair price to be charged against all the rights of way on this line and the Carmel pipe line. The total of all lengths of main is as follows:

Twenty-two-inch main	56,775 feet
Carmel main	102,599 feet
By-pass, 12-inch and 16-inch mains	14,963 feet
Total	184,337 feet

This at the unit price of 11 2-10 cents per foot, established by the purchase, assumed to be average, amounts to $20,640.00. The width of right of way established by this purchase is only 10 feet, while the improvement company's ownership ordinarily secured 30, 40, and 50-foot rights of way. It is shown that generally speaking not more than 10 feet are necessary for this pipe line, especially through lands that have agricultural use, and even this width is not disturbed for many years during the useful life of the pipe.

The excessive cost of the right of way for the 22-inch main through Carmel, listed at $12,000.00, is disallowed because the amount allowed as the value of the Carmel water system is greater than the payment for right of way and for the physical property combined.

The actual amounts paid for water rights along the Carmel River, in a number of instances, have been determined. Applying the unit cost per river front foot, as determined by actual purchases, to the entire river frontage controlled or claimed to be controlled by this company of 166,252 feet, we get an estimated total cost of $53,200.00.

The amount of $83,000.00 is presented by the engineer for the water

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company as the cost of developing the business. No claim is made for going concern value or any other of the intangible values usually urged by engineers representing utilities. This development cost is based upon such book records as are in existence as shown graphically on Plat 1, page 47, of defendant's Exhibit 1. In this it is shown that the sum of all surplusage amounts to $45,000.00 and the sum of all deficits to $304,500.00, leaving a net deficit of $259,500.00. It is admitted by the company that the Del Monte properties do not pay to the water company a proper rate, and that there is some free use of water where payment ought properly have been rendered. The engineer, therefore, places a charge that he considers might properly have been borne throughout the period by the Del Monte Hotel at $42,000.00 per year, or $32,000.00 more than was actually charged in recent years, and by applying this rate he decreases the deficit to $83,000.00 and suggests a further decrease to $73,000.00, provided the straight line method of depreciation be applied. He, however, does not admit the contention of Engineer Brown for the city and Hawley for the Commission that a part should have been borne by the Los Laureles Ranch and other users under the free water contracts, and that this should be computed and deducted from the otherwise deficit.

As is shown by Table "A" in the brief of the water company and given below, there is substantial agreement upon the cost estimate of the distribution system as a whole, between the three estimates of engineers presented. By comparison with original book cost of property in the unincorporated territory, the estimates are high, due principally to the fact that the Carmel system was purchased at a price decidedly below the estimate for this property.

Table "B" in the water company's brief shows the principal items in which there is a difference of opinion. In the Carmel dam the difference is in the use by Hunter of an abstract segregation of incomplete reports and accounts, by Brown of strict reproduction cost at one time of construction, and by Hawley of an estimate of cost by alleged reasonable methods, but constructed piecemeal.

The body of the dam was built in or about 1884, but not carried to a proper depth and did not intercept all the flow, therefore a curtain wall was sunk to bedrock at the upstream face of the dam in 1913. This required an excavation deeper than in the initial building, due to the raising of the stream bed by the dam itself.

The 22-inch main was assumed at the cost as shown by Hunter's derivation from books of that company. I have no doubt, upon investigation, that the records are reasonably accurate or that the company made other than the best effort to prosecute their plans economically. The overhead not then carried to this account was added by Hunter at 10 per cent and by Hawley at 6½ per cent. The items are only for over-

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head value to this work, or service rendered it, by the San Francisco office of the improvement company, and interest during construction. All other overhead is included in the book costs.

A year and a half, the time used by the Commission's engineers, seems an adequate length of time for the completion of the works as the average time the money was invested before completion, and 2 per cent of the cost, or $4,423.00, seems adequate to cover all indirect service of the San Francisco office. It is a fact on construction work generally that it is carried on after acceptance of plans entirely under the direction of the engineer and all charges placed directly. This is true of purchases, bookkeeping and preparation of vouchers. The accounts show that there was a very considerable part of otherwise overhead carried in the unit costs.

Item 39 to 45, Table 4, Exhibit No. 1 of utility appear to be overhead accounts, and these total $13,407.71. Above the book costs Hawley added $14,134.00; in all for all overhead $27,542.00. In this manner the unloaded cost is $204,041.00, and overhead 13.5 per cent. While this may seem low, anything in the form of contingencies is already included, other than the known delay, and any contract, profit or parallel expense for supervision, tool and camp cost, is also included in the separate items.

Hunter, on page 11 of his brief, did not use items 39–42 as overhead. Overhead comparison, using these items, is, then:

Hunter	$35,153 00	*17.2	per cent
Hawley	27,542 00	*13.5	per cent
Brown	24,136 00	*12	per cent

*Assuming same value.

The Carmel main was constructed, according to incomplete records, in about the same length of time, one and one half years as assumed here, and cost very nearly one and one half times the amount of the 22-inch main. The work was in 1884, when greater difficulties might reasonably have been met.

In referring to the Carmel main, the brief of the utility admits that the Hawley valuation of this item "represents a reasonable cost of this pipe line." The estimate by Brown is much lower but it is not correct, in that a heavier pipe line was constructed actually, and this fact was admitted by Brown; also, Hunter and Hawley each included road construction necessary in constructing the line, which was omitted by Brown.

In the valuation of the Clay Pits reservoir the correction referred to in the utility brief on page 13, changing the Hawley report on this item from $169,535.00 to $176,999.00, I believe is proper, this being correction of a clerical error. This, as noted, checks closely with the so-called book cost, and I can not see that this book cost does not contain overhead charges.

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The unit cost of earth in embankment is placed by Hunter at 60 cents, by Brown at 25 cents and 20 cents and by Hawley at 50 cents. Brown assumed the use of steam shovel for part and scraper for part of the work.

Without going into an analysis of the testimony of the various engineers upon this point, it should be noted that there are numerous instances of similar structures built at very nearly the estimate presented by the Commission's engineers. The brief of the defendant calls particular attention to the statement of Mr. Hunter that the road work of the improvement company cost about 68 cents. This I do not think a proper comparison, as the conditions under which a construction outfit would work in constructing the roads would be in no way comparable to the system to be followed in constructing this dam. Here there is but a single camp and a definite method for the handling of materials and the opportunity to obtain the materials best fitted for the purpose under probably the most satisfactory conditions. The site of the reservoir is on a saddle but also is essentially a depression, where probably the material excavated from the reservoir basin did not necessarily extend into hard materials. The borrow pits once opened would excavate much more easily than the average of materials along the roads where there would be a continuous opening of fresh borrow pits and the difficulty of encountering roots and boulders. On this particular point there is no exact method of determining the reasonable cost, and it resolves itself largely to judgment of the various witnesses.

Very nearly the same difference of opinion exists in the estimates of cost upon the Pacific Grove reservoir. The actual cost shown by Hunter is not a particularly safe guide, there having been a complication introduced through the work done jointly by outside parties and the water company, in enlarging this reservoir in 1912 and 1913.

The estimate presented by the Commission's engineers does not make any deduction for the amount received by the water company, either in assistance or in funds, from the use by outside parties of this material for street ballast. The total estimate, $75,284.00, is purely the measure of reasonable cost of the work as it stands, using the agreed amounts of materials and classification. Attention is called in the brief of the company to the fact that the water works paid about 50 cents per cubic yard for moving materials in 1905 for a part only of the material then moved. However, it might be relevant that the material taken from the reservoir at that time was rock and was used largely for road ballast. An equivalent increased capacity could probably have been obtained without cutting into the rock, and would probably have cost no more than had the company borne all the expense.

The lands, other than rights of way, are placed by the engineers for the city and Commission at approximately cost price, and by Hunter at

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an estimate of present value. The several witnesses brought on to establish a present market value differ very considerably. The brief for the defendant agrees that the original cost should be used, provided the sinking fund method were adopted.

Reverting to the question of development of business cost, the amounts that would be added to the total income from the beginning of operations to the present day, according to the estimate of the Commission's engineer, would be $124,250.00. The estimate under the same head of Brown for the city of Monterey would be very much in excess of this amount, but in either case this would be sufficient to eliminate the same estimate by Hunter. Hunter did not include in this statement any amount for sinking fund, which, according to Hunter's determination, should amount to very nearly $89,000.00. It is stated that the amount actually in this fund on deposit with the International Banking Corporation on January 1, 1914, amounted to $110,157.00.

The question of the propriety of a large portion of the property as constructed was raised during the hearing, and Hawley and Brown each proposed either elimination or substitution of the reasonable cost of other structures. This also would have a direct bearing upon the determination of the reasonable "development of business" cost. The following is the recommended estimate of reasonable cost or probable investment in the existing system, without the possible eliminations or substitutions:

Distribution system	Cost	4 per cent sinking fund annuity
Monterey	$136,272 00	$1,703 00
Pacific Grove	130,163 00	1,789 00
Unincorporated	45,266 00	1,250 00
12-inch main	16,876 00	178 00
16-inch main	96,102 00	94 00
Buildings	8,363 00	96 00
Tanks	227 00	8 00
Pumping equipment	9,547 00	186 00
Ventura meters	2,938 00	19 00
General stock, etc	31,064 00	----------
Tularcitors surveys	2,950 00	----------
Carmel dam	20,500 00	7 00
22-inch main	231,582 00	1,518 00
Carmel main	313,900 00	791 00
Clay Pits reservoir	176,999 00	61 00
Pacific Grove reservoir	75,284 00	32 00
Rights of way	20,646 00	----------
Riparian and diversion rights	53,200 00	----------
Lands other than above	10,473 00	----------
	$1,382,552 00	$7,732 00

In Brown's report, complainant's Exhibit No. 7, on pages 65 to 70, are listed the properties which Engineer Brown considers to be not used and useful, and these include the Laureles pumping plant site, Wither's

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Addition pumping plant site, Johnson Addition pumping plant site. the 22-inch main entire with right of way, the Pacific Grove reservoir entire with lands and supply lines, the Monterey Heights pumping plant site and building, various lots and buildings on the distribution system; in all, the total that it is recommended be deducted from the valuation otherwise established is, reproduction cost, $288,014.00, present value, $252,319.00, and from the annual depreciation allowance $5,192.00. The Commission's engineer agrees in the elimination of the Laureles pumping plant site and of the Monterey Heights pumping plant entire, and recommended reducing the value of the Carmel River pumping plant and transmission main to scrap value, but did not agree that the 22-inch main and the Pacific Grove reservoir, the items which the engineer for the city proposes to eliminate, could be withdrawn from service outright.

The substitution in the valuation upon which consumers should pay rates, of a storage and transmission system that is capable of giving service equivalent to that possible with the present plant, was suggested by the Commission's engineer, in which it was assumed that instead of building the Clay Pits reservoir in 1892, a reservoir with equal or greater capacity should have been built above the intake of the Carmel main. The cost of this reservoir should not have been more than that of the Clay Pits reservoir, and it would have been possible to use the Carmel main to full capacity or to increase the capacity by extending this main up river and connecting direct with the reservoir, so that the main could be operated at capacity at all times.

During 1913 there was a period of several months during which practically no water supply was available from Carmel River. Previous to that period it was essential that a greater capacity than that furnished by the Carmel main be in existence to fill the Clay Pits reservoir, which, through the combined capacity of the Carmel and the 22-inch mains, was actually full at the beginning of the period of drought. With the reservoir constructed above the Carmel dam, there would have been no reason for the construction of the 22-inch main, and the entire investment estimated at $231,582.00, as given above, would have been unnecessary. At this time, for about seven miles above the Clay Pits reservoir, there are in existence a 22 and a 12-inch pipe line. One 24-inch pipe line would have the capacity of the two, and would cost very considerably less than the sum of the two lines, or as is stated in the evidence of Messrs. Brown and Hawley, a single 18-inch line throughout the entire length of the Carmel main would be adequate for the present service. Had this been built of the same material as that used in the upper end, between the Carmel dam and the Los Laureles Ranch, the initial cost would have been considerably less than for the present pipe line of varying size and character of materials. The average cost of the 18-inch

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main per foot by the Commission's engineer's estimate was $2.76. The total length of this main, being 102,599 feet, the approximate total cost of the line would apparently have been $283,173.00. This, however, is in excess of the probable actual cost, as the 18-inch pipe actually laid was the most remote and difficult portion of the work. This shows a possible reduction in cost from the actual Carmel main of about $30,000.00. However, there would be a slight increase in the annuity necessary for the replacement of this main, due to the shorter life of the riveted iron pipe than of the 12-inch cast iron. It is probable that the two items would practically counterbalance; that is, that interest on the reduction of cost would about equal the increase in annuity. Although very improbable, it is possible that the reservoir in the canyon would have cost more than the Clay Pits reservoir; therefore, instead of suggesting the elimination of the entire cost of the 22-inch main, a reduction of $200,000.00 was proposed during the hearing, with the further elimination from the sinking fund annuity of $1,200.00, this being practically four fifths of the addition to this fund set over against the 22-inch main.

While it seems proper that the Monterey Heights pumping plant and the Johnson Addition pumping plant should be eliminated, it was stated during the hearing to be the plan of the water company to erect a tank of adequate capacity on the Wither's Tract to the north and Monterey Heights to the south of the United States Military Reservation for service of these tracts. The investment in this additional equipment will not be far from the amounts charged against these pumping plants and plant sites. The installation now proposed and probably under way seems a reasonable and proper installation to provide for emergencies, whereas the small separate pumping plants and small tanks installed and available for emergency operation do not seem proper. The amount that will have to be set aside in rates will be practically the same in either case, and, therefore, I will not eliminate these properties.

The possible reduction from the tabulation of values and sinking fund annuities fund will then be:

Item	Cost	Annuity
Carmel pumping plant, etc.	$7,000 00	$150 00
22-inch main	200,000 00	1,000 00
Total	$207,000 00	$1,150 00
Total cost actual plant	1,382,552 00	7,732 00
	$1,175,552 00	$6,582 00

The maintenance and operation expense was made the subject of special investigation by Accountant Burns of the Commission, whose report is filed with the Commission as its Exhibit No. 1. The years

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1911 to 1913, inclusive, were considered in detail, and the expenses of these years analyzed. It was found difficult to segregate the actual maintenance from replacement of portions of the property, particularly in the distribution systems in Monterey, Pacific Grove and Carmel. According to the testimony there has been considerable expense thrust upon the company by the final establishment of street grades and lines, requiring the shifting of a number of mains and connections. Undoubtedly a large part of the lines changed have been renewed or replaced with larger sizes, but it is impossible to get details of what has actually been accomplished. An estimate of the expense actually incurred and to be incurred under this head, will be included in the estimate of proper maintenance and operation account, and this will be carried as an extraordinary expense to be distributed over a period of years. The expense of pumping under deduction of what the accountant has called extraordinary maintenance, shows a comparatively uniform amount. The extraordinary pumping expense was found to be in part due to the establishment of the Laureles pumping plant below the flood level of Carmel River, and in 1913 this plant was much damaged. In 1914 the plant was entirely destroyed. It does not seem proper, due to the location of this plant and to the fact that this point was known to be endangered, that any particular sum should be allowed for past repairs. There is a possibility of recurrence of dry years such as 1912 and 1913, and it is believed that the $6,500.00 allowed for pumping expense will be entirely adequate to cover both the excess pumping in recurring dry periods and all repairs that are necessary upon the pumping plants. There is some doubt in my mind whether so great a sum should be allowed.

The only expense for pumping, necessary with adequate storage supply, is in lifting water at Plant No. 1 for use in the Wither's Tract, Monterey Heights, and the higher portion of the Presidio grounds.

The general expense found on the books of the company includes $285.00 per month charged by the improvement company for services at its principal office. This is arbitrary and seems placed at too high a value, and I will use $100.00 per month as an estimate of the expense through the meetings of the board of directors. The general superintendent, Mr. Shepard, gives the service in the actual operation and conduct of the business of his company that would be given by a resident manager operating this company separately, and, as established in testimony, all the books are kept at Monterey and all collections made by employees of the Monterey office. During construction work there may have been some particular advantage in having a purchasing agent at the San Francisco office of the improvement company. However, during recent years, there has been little construction work, and under

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no conditions should this be charged against the maintenance and operation account.

There also is some portion of the time of employees at the Monterey office actually employed upon the business of the improvement company direct. In part, this is covered by the payment of $25.00 on the salary of Mr. Olmstead, superintendent of the water company, by the improvement company, and the statement in testimony of the officers of both companies that the improvement company makes payment to the water company for any services rendered. This does not show definitely on the books of the utility company.

The following is the final estimate of a proper maintenance and operation account:

Operation:		
Pumping expenses		$6,500 00
Distribution expenses		3,000 00
Commercial expenses		6,000 00
Central plant maintenance		1,500 00
General:		
Officers' and Clerks' salaries and expenses		5,600 00
Insurance		400 00
Taxes		5,100 00
Extraordinary:		
Water analysis (1913)	$812 00	
Fighting fire (1913)	106 00	
Account street changes (based on mean 1911-13)	5,000 00	
Expense before Commission, as per statement	9,479 00	
	$15,397 00	
One tenth per year		1,540 00
Total maintenance and operation		$29,640 00

Total annual revenues actually obtained by the water company have been: In 1911, $67,272.00; in 1912, $72,763.00, and in 1913, $81,323.00. This amount should properly be increased by $32,000.00 in each year by the amount admitted by the utility to be a proper addition to the $10,000.00 already paid by Hotel Del Monte and grounds. There would also be some further payment properly added for water delivered free of charge, although not to the extent claimed by the city. Assuming the total additional charge that might properly have been collected to be $33,000.00, the income for the three years becomes: 1911, $100,272.00; 1912, $105,763.00, and 1913, $114,323.00.

The actual revenue that will be received during 1914 cannot be forecast by that of 1913—*first,* because of the actual growth of the communities; and, *second,* due to the fact that the Carmel system was obtained by this company during the year, and its rates were collected for only the last six months of the year. The rates suggested will be based upon the amounts actually used in 1913 and before; the use at

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Carmel being estimated by the records obtained for the last half of 1913 and the first half of 1914. The rate of increase in water use is shown by the records of income set forth above, in part only. The point at which the use occurred and the rate at which the increasing amounts may have been delivered also, have a direct bearing, and in establishing a uniform rate this is to be considered.

In computing a rate, it is assumed that the safe yield of the system is adequate for all present and immediate future demands, and that this condition would not be changed had the projected substitution of a reservoir supply above the intake of the Carmel main been constructed. The present rate in effect is expressed on part of the system in gallons, and on part in cubic feet. It seems desirable that either one unit or the other be used exclusively, and as the meters in use by this company and manufactured for the general market, read in cubic feet, that unit of measure will be used.

Very considerable fluctuation in use has been recorded on the Del Monte grounds and at the Presidio. The amount of water used for street sprinkling and for use on the county roads is not possible of close enough determination to give an exact measure of the consumption to be expected in the future, and the amounts set forth in the tabulation are based upon the evidence of the last two years rather than extending further into the past. The use at Del Monte in the last seven years has varied between 26,200,000 cubic feet and 15,700,000 cubic feet, the latter amount being the use of 1913.

In the year 1906, the use was about 13,000,000 cubic feet, but there is no reason to suppose that it will again fall to that figure. The free use of water in the canyon, other than that on the Los Laureles Ranch, has been estimated on the basis presented by Engineer Brown for the city, and modified in amount of use somewhat in accordance with that shown by the company's testimony of actual amounts used in 1910 in some of these places. This is included in the general tabulation of individual use of water. The use by the towns for public purposes is also included with the assumption that each building and park connection will pay its regular rate just as would an individual. The rate for water for street sprinkling, however, which is taken from the public hydrants, on which it is presumed that rental will be paid, and measured by tank measurement without necessity for a meter can properly be fixed at a flat wholesale price without payment of minima. The water used at Los Laureles Ranch for irrigation is taken at the round figure of 5,000,000 cubic feet, or 375,000,000 gallons, per annum, and the rate per hundred cubic feet placed at about what can reasonably be paid for irrigation water delivered through a pipe system, and presumes that a somewhat lower rate may be proper on account of the shorter distance the water

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is carried, and because there is no storage provided. The rate of 3 cents per hundred cubic feet is equivalent to 4 cents per thousand gallons or 2.2 cents per miner's inch hour.

A fire hydrant rental will be placed tentatively at $1.00 per month per hydrant where there is now no payment established. It is established in testimony that the towns of Pacific Grove and Monterey have each contributed sums to the installation of fire hydrants, and of certain mains. These, however, are now in the control of the company and can hardly be considered other than its property. Should the company be improperly in possession of property or funds for the purpose of installing this equipment, these should be returned to the municipalities, or payment made therefor.

I have gone somewhat into detail in discussing the evidence in this case and shall fix a rate which, in my view, will pay all of the legitimate expenses of this company, provide a sufficient amount for depreciation and a reasonable return upon the value of the property.

It has not been possible, of course, to decide definitely the effect of this rate or definitely the return, because it is impossible to make a direct comparison between the return which will be received during the next year and that which has been received during the past year. These communities are growing and the surrounding country developing; several years past have been quite dry and the consumption of water not normal; in the order, however, I shall fix rates which will yield, if applied properly to the Hotel Del Monte and the free uses which may be legitimately required to bear their proportion of the burden of conducting this system, an adequate revenue for this company, from which it may receive a return upon its property, continue its depreciation fund and pay all of its operating and other legitimate expenses. If, after trial, it be found that these rates do not substantially meet with my expectations, which are based upon the evidence in this case, the Commission will be very glad, on the matter being brought to its attention, either by the company or the city, again to investigate and revise them, if found necessary.

As has already been suggested, the present basis of rates is both per thousand gallons and per hundred cubic feet, bringing about inconsistencies in the rates. The rates imposed will be stated in cubic feet, applying to all users. I am impressed with the fact that the minimum is too high, thus being unduly burdensome to the small user. While it may appear that the rate paid by the cities for fire hydrants and for street sprinkling is, comparatively speaking, low, yet it is very difficult to figure this kind of service. For the present, therefore, this rate will not be substantially changed; subsequently, if it be found necessary this may be the subject of a further investigation.

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I submit the following order:

ORDER.

The city of Monterey having filed its complaint against the Monterey County Water Works, alleging the rates of that company are unjust and unreasonable, and the Monterey County Water Works having answered and denied the material allegations of the complaint, and subsequently having filed an application to increase the rates charged by said Monterey County Water Works to its consumers; and, by agreement, the two cases being combined and a hearing having been held, and it being stipulated that the rates applying in the city of Pacific Grove and within the entire territory served by this utility should be in issue in this case, and being fully apprised in the premises, the Commission hereby finds as a fact:

That the rates now charged by the Monterey County Water Works are unjust, unreasonable and discriminatory, and the Commission further finds as a fact that the following rates are just and reasonable rates to be charged by the Monterey County Water Works to its patrons in the cities of Monterey, Pacific Grove and in other territory served by said Monterey County Water Works:

General Use, to Apply Upon All Users on Separate Premises, in Whatever Ownership.

For a minimum payment of 90 cents per month, 300 cubic feet;

For use between 300 cubic feet and 1,000 cubic feet per month, 25 cents per 100 cubic feet;

And for all use above 1,000 cubic feet per month, 21 cents per 100 cubic feet.

Special Use.

Del Monte Hotel and grounds at 21 cents per 100 cubic feet;

The Presidio of Monterey, 21 cents per 100 cubic feet;

For sprinkling streets and roads, present rates;

Irrigation on the Los Laureles Rancho, 3 cents per 100 cubic feet;

Fire hydrant rental, present rates.

The company to install all meters and service connections at its own expense and to extend to all applicants within the cities of Monterey and Pacific Grove whenever application is made. If in any case application be made for service, and those in charge of this utility think such extension ought not to be made on account of peculiarly expensive construction, the matter may be laid before the Commission, in which event it will be determined whether or not the extension shall be made and at whose cost.

Basing this order on the foregoing findings of fact and the findings of fact in the opinion hereto,

It is hereby ordered:

1. That the rates found to be reasonable herein are hereby estab-

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lished to be charged by the Monterey County Water Works to its respective classes of patrons as set out in the schedule found to be reasonable.

2. The foregoing rates to become effective twenty days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of October, 1914.

DECISION No. 1856.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF FRESNO COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT A PUBLIC HIGHWAY CROSSING AT GRADE OVER THE TRACKS OF SOUTHERN PACIFIC COMPANY AT ISABELLA STREET, NEAR THE CITY OF FRESNO, FRESNO COUNTY, CALIFORNIA.

Application No. 1351.

Decided October 10, 1914.

Applicant applies for permission to extend Isabella street across the tracks of the Southern Pacific Company so as to form a connection with the state highway, and it appearing that at present there is only one route open leading from the city of Fresno to the territory southeast thereof, which crossing is extremely dangerous, and the proposed crossing being far less dangerous and more practicable, application granted.

M. G. Gallaher, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The board of supervisors of Fresno County filed this application with the Commission on September 29, 1914, and on October 8, 1914, a public hearing was held in the city of Fresno, at which all interested parties were represented.

Isabella street is an eighty-foot street extending from the right of way of the Southern Pacific Company at the site of the proposed crossing, north, to where it joins "K" street. This application looks to the opening of Isabella street across the tracks to join the state highway, which is parallel to and just south of the railroad, with a view of making a through route for the southeast portion of the territory around Fresno to and from the city, via Isabella street and "K" street.

At the present time all the traffic for this section of the country uses a crossing known as the "Cherry avenue" crossing, which crosses the

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tracks of the Southern Pacific about 1200 feet northwest, measured along the track, from the site of this proposed crossing. At this Cherry avenue crossing five streets come together and cross the two main line tracks of the Southern Pacific, a track known as the "ice track" and the track of the Sanger branch, which has its junction with the main line practically at this point. This crossing is an exceedingly busy one, taking care, as it does, of all traffic from that part of the county, and over it many automobiles pass each day and much hauling is done. The Southern Pacific runs a large number of trains over the main line, quite a number over the Sanger branch, and there is considerable switching done on the "ice track." To drivers of vehicles coming from the north there are several bad obstructions to the view, and in spite of the fact that this crossing is protected by a crossing bell, I consider the situation here very dangerous.

At the site of the proposed crossing on Isabella street there will be crossed two main line tracks of the Southern Pacific and the "ice track" previously mentioned. Along the north boundary of the right of way of the Southern Pacific at this point and extending some distance east and west is a high hedge which would make an absolute obstruction to the view, but with the hedge entirely removed or enough of it removed to permit of a good view being had of the tracks, this crossing will be entirely open, and, properly protected, it will not be a dangerous crossing.

About 800 feet north of this proposed crossing Isabella street crosses the Sanger branch, which at this point is on California street, California street running approximately east and west. Although this crossing is at present open and was not mentioned in the application, in view of the large amount of traffic which will undoubtedly be diverted from Cherry street to Isabella street and over this crossing, if this application is granted, it is necessary to consider it in this connection. The speed of trains at this point is not great, but there are several trees and other obstructions, the removal of which will greatly increase the safety of the public at this place, and if the crossing is protected and these obstructions removed, the crossing of the Sanger branch will be much safer than it can be made at Cherry avenue.

By granting this application a shorter road (via Isabella and "K" streets) will be opened to the public to and from Fresno and the southeast part of the county, and this route will have the further advantage, over any other route, of being on streets which are free from street car lines, but in my opinion, the greatest advantage in permitting this crossing to be constructed will be the substitution, for a large traffic, of a crossing which is fairly safe for a crossing which is very dangerous, and this advantage will accrue not only to the people of Fresno County and others who use the highways, but to the Southern Pacific as well.

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This latter reason makes this case an exception to the proposition so often stated by the Commission that every additional grade crossing means an additional hazard.

I recommend to the board of supervisors of the county of Fresno that, with the granting of this application, it take such steps as are necessary to remove the obstructions to the view which now exist at the California-Isabella street crossing of the Sanger branch, and I recommend to the Southern Pacific Company that it install an automatic flagman to protect this crossing.

The question of a separation of grades at the crossing involved in the application was not gone into at the hearing, since it was apparent that the proximity of the state highway, immediately south of the crossing, would make such a grade separation inconvenient and exceedingly costly.

I recommend the following form of order:

ORDER.

County of Fresno having made application to the Commission for permission to construct Isabella street at grade across the tracks of the Southern Pacific Company, near the city of Fresno, Fresno County, California, and a hearing having been held, and it appearing to the Commission, for the reasons hereinbefore mentioned, that it is proper and advisable to grant this application,

It is hereby ordered that permission be and the same is hereby granted the board of supervisors of Fresno County, California, to construct Isabella street at grade across the tracks of Southern Pacific Company at the point shown by the map attached to the application; said crossing to be constructed subject to the following conditions and not otherwise:

(1) This crossing shall be made with grades of approach not exceeding six (6) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing this crossing, together with all incidental expenses connected therewith except the furnishing and installing of cattle guards, wing fences and automatic crossing protection, hereinafter to be mentioned, shall be borne by the county of Fresno.

(3) The expense of furnishing and constructing cattle guards and wing fences, and furnishing and installing an automatic flagman of a type approved by the Commission, shall be borne by Southern Pacific Company.

(4) The expense of maintaining the crossing in good and first-class condition for the safe and convenient use of the public shall be borne by the county of Fresno up to within two (2) feet of the tracks of Southern Pacific Company.

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(5) The expense of maintaining the crossing over the tracks and to a distance of two (2) feet outside thereof shall be borne by Southern Pacific Company.

(6) The expense of maintaining the automatic flagman, hereinbefore mentioned, shall be borne by Southern Pacific Company.

(7) The existing hedge fence along the north line of the right of way of Southern Pacific Company shall be removed from across Isabella street and shall be removed as far as it now exists to the west and not less than six hundred (600) feet to the east of Isabella street, and the entire expense of removing this hedge shall be borne by the county of Fresno.

(8) The Commission reserves the right to make such further orders relative to this crossing and the crossing of the Sanger branch by Isabella street, hereinbefore mentioned, as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 10th day of October, 1914.

DECISION NO. 1857.

POSTAL TELEGRAPH CABLE COMPANY
vs.
WESTERN UNION TELEGRAPH COMPANY.

Case No. 657.

Decided October 10, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled acting having, on October 5, 1914, made written request to this Commission that the above entitled case be dismissed,

It is hereby ordered that the above entitled case be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 10th day of October, 1914.

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DECISION No. 1858.

CHARLES TORRENCE
vs.
FRESNO TRACTION COMPANY.

Case No. 659.

Decided October 10, 1911.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled matter having on the 8th day of October, 1914, requested that this Commission dismiss the above entitled case,

It is hereby ordered that the above entitled case be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 10th day of October, 1914.

DECISION No. 1859.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA NAVIGATION AND IMPROVEMENT COMPANY FOR AUTHORITY TO INCREASE CERTAIN CLASS AND COMMODITY RATES BETWEEN SAN FRANCISCO AND SAN JOAQUIN RIVER POINTS.

Application No. 856.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA TRANSPORTATION COMPANY FOR AUTHORITY TO INCREASE CERTAIN CLASS AND COMMODITY RATES BETWEEN SAN FRANCISCO AND SAN JOAQUIN RIVER POINTS.

Application No. 857.

IN THE MATTER OF THE APPLICATION OF FARMERS' TRANSPORTATION COMPANY TO INCREASE CERTAIN RATES AND ALTER RULES AND REGULATIONS SO AS TO EFFECT INCREASES IN RATE BETWEEN SAN FRANCISCO AND SACRAMENTO.

Application No. 831.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSPORTATION COMPANY FOR RELIEF FROM PROVISIONS OF SECTION 21, ARTICLE 12, OF THE CONSTITUTION OF CALIFORNIA.

Application No. 832.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY TO INCREASE CERTAIN CLASS AND COMMODITY RATES VIA STEAMER LINE BETWEEN SAN FRANCISCO AND SACRAMENTO RIVER POINTS.

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Application No. 833.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSPORTATION COMPANY TO INCREASE CERTAIN CLASS AND COMMODITY RATES BETWEEN SAN FRANCISCO AND SACRAMENTO RIVER POINTS.

Application No. 834.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO TRANSPORTATION COMPANY FOR PERMISSION TO INCREASE CERTAIN CLASS AND COMMODITY RATES VIA STEAMER LINE BETWEEN SAN FRANCISCO AND SACRAMENTO.

Application No. 891.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE RATES FOR TRANSPORTATION OF FREIGHT BY WATER BETWEEN SAN FRANCISCO, STOCKTON, SACRAMENTO AND INTERMEDIATE POINTS.

JACKSON MERCHANTS' ASSOCIATION, INTERVENOR; FARMERS' EXCHANGE, COURTLAND, INTERVENOR.

Case No. 534.

Decided October 10, 1914.

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

No good cause appearing why a rehearing should be had in the above entitled proceedings,

It is hereby ordered that the petition of California Navigation and Improvement Company and the petition of California Transportation Company for a rehearing in these proceedings be and the same are hereby denied.

By order of the Railroad Commission.

Dated at San Francisco, California, this 10th day of October, 1914.

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DECISION No. 1860.

REEDLEY TELEPHONE COMPANY

vs.

L. O. CLOUGH, J. E. ANDERSON, C. E. SCHROEDER, ANTON HANSEN AND J. W. GALLEE.

Case No. 658.

Decided October 10, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled case having, on October 1, 1914, made written request to this Commission that the above entitled proceeding be dismissed,

It is hereby ordered that the above entitled case be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 10th day of October, 1914.

DECISION No. 1861.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE NOTES.

Application No. 1198.

Decided October 10, 1914.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

It is hereby ordered that Southern Counties Gas Company of California be and the same is hereby authorized to execute a mortgage upon its property in the form of the deed of trust filed in this proceeding and marked "Exhibit H," which form of deed of trust is hereby approved by this Commission, provided that this order is made upon the condition and with the clear understanding that none of the provisions contained in the form of deed of trust herein approved shall be construed as authorizing applicant to issue any promissory notes thereunder, other than the $240,500.00 face value heretofore authorized in this proceeding, without first having obtained the consent of this Commission.

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This order supersedes the second supplemental order made in this proceeding on September 1, 1914, approving a form of deed of trust filed and marked "Exhibit G," which order is hereby cancelled.

By order of the Railroad Commission.

Dated at San Francisco, California, this 10th day of October, 1914.

DECISION No. 1862.

IN THE MATTER OF THE APPLICATION OF WESTERN WATER COMPANY FOR AN ORDER THAT NO CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS NECESSARY TO CONTINUE TO SELL AND DISTRIBUTE WATER IN CERTAIN PARTS OF KERN COUNTY.

Application No. 958.

Decided October 10, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

It appearing that in the order made in this proceeding on September 1, 1914, certain clerical errors were made in describing the territory in which Western Water Company might construct and operate a water pipe line system,

It is hereby ordered that said order be and the same is hereby amended to read:

That public convenience and necessity require, and will require the construction and operation of a water pipe line system of the Western Water Company in the following described territory:

> Sections 33 and 34, township 32 south, range 24 east, Mount Diablo base and meridian; section 25, township 12 north, range 24 west, San Bernardino base and meridian; section 31, township 12 north, range 23 west, San Bernardino base and meridian; sections 4 and 5, township 11 north, range 23 west, San Bernardino base and meridian.

By order of the Railroad Commission.

Dated at San Francisco, California, this 10th day of October, 1914.

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Decision No. 1863.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR AUTHORITY, UNDER SECTION 27 OF THE PUBLIC UTILITIES ACT, TO CHARGE AND COLLECT WITHIN THE LIMITS OF THE CITY OF OAKLAND FARES IN EXCESS OF FIVE CENTS FOR ONE CONTINUOUS RIDE IN THE SAME DIRECTION WITHIN THE CORPORATE LIMITS OF SAID CITY OF OAKLAND.

Application No. 860.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR AUTHORITY, UNDER SECTION 63 OF THE PUBLIC UTILITIES ACT, TO INCREASE THE INDIVIDUAL MONTHLY COMMUTATION FARES BETWEEN SAN FRANCISCO, OAKLAND AND HAVENSCOURT, CALIFORNIA.

Application No. 861.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR AN ORDER INCREASING ITS PASSENGER FARES BETWEEN SAN FRANCISCO AND ALAMEDA COUNTY POINTS AND BETWEEN POINTS WITHIN THE COUNTY OF ALAMEDA.

Application No. 1105.

FOOTHILL IMPROVEMENT CLUB

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 517.

HENRY WARFIELD

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 519.

Decided October 10, 1914.

Applicant, Southern Pacific Company, operating a number of suburban lines between points in Alameda County to connections with its San Francisco boats, applies for permission to maintain a fare greater than 5 cents between points within the city of Oakland, and for permission to increase its monthly commutation and one way fares between San Francisco and Alameda County points. Complaints, consolidated with the above applications for hearing and decision, bring into question the reasonableness of defendant's rates between Havenscourt, Dutton, Parker and Yokum avenues and San Francisco, and also allege inadequate service between Dutton avenue and San Francisco.

Held. After thorough consideration of the evidence tendered: That Southern Pacific Company has not made a showing sufficient to warrant an increase in the present rates, especially as such rates were voluntarily accorded by the company and have been effective for a considerable period of time. Applications to increase present commutation and one way fares denied and the complaints against these rates dismissed. Applicant directed to establish a 5-cent fare between all points within the city of Oakland, excepting to and from Oakland pier, and interested parties directed to confer with the rate department of the Commission and present, within twenty days, plans for the establishment of a uniform schedule of rates to Seminary avenue and points east thereof, eliminating the discrimination at present existing between these points, such adjustments to be established

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with the understanding that the Commission does not consider a 10 cent one way fare nor a $3.00 monthly commutation rate justified, owing to the limited amount of travel between these points and San Francisco.

Held, As regards the cost of electrifying applicant's suburban system: That though the Commission believes that a utility is entitled to a return upon the cost of betterments and improvements to its plant or system, if such improvements are made with a view to adequately and efficiently handling future increases in business, which might reasonably be expected to occur, the present patrons should not be required to provide a return upon the cost of such betterments not at present necessary or useful to adequately handle the present amount of business.

Held, As regards the relation of the suburban to the main line business and the apportionment of values between the two: That the suburban system and not the main line system should be considered the by-product as regards their relation to applicant's ferry lines, and considering that the ferry service is essential to applicant's main line business, the suburban rates need not bear an equitable relation to the unit cost of such service but should be considered upon the basis of the added cost to perform the additional service and the added revenues derived from such service. That suburban service is essentially wholesale, and it is therefore erroneous to apportion unit costs and divisions of property on an equality with a service essentially retail and entirely different.

Held, That though competition necessarily enforces more efficient service and lower rates, where adequate regulation exists, the unnecessary duplication of facilities upon which a public is expected to pay a rate permitting of a fair return, is not an economical method of obtaining such lower rates or better service, and that while applicant, in consideration of future increased business, was justified in electrifying its system, a number of the additional lines constructed, particularly those paralleling the lines of the Key System, were unwarranted, and upon such unnecessary duplication a public cannot be expected to provide a return.

Held, That though the Commission has no desire to uphold a confiscatory rate, the strictest regulation is necessary in the present instance to prevent an enormous confiscation of property of the thousands of people who have built houses, contributory to applicant's lines, and being daily obliged to use applicant's trains, would be materially affected by an increase in the rates voluntarily established by the carrier and maintained over a considerable period of time.

C. W. Durbrow, for Applicant and Defendant.

Guy C. Earl and *Chaffee E. Hall*, for Protestants and Complainants.

Ben F. Woolner and *J. J. Earle*, for City of Oakland, Intervenor.

Frank B. Cornish, for City of Berkeley, Intervenor.

REPORT OF THE COMMISSION.

ESHLEMAN and GORDON, *Commissioners.*

These five proceedings taken together involve all of the commutation rates between San Francisco and Alameda County points in the cities of Oakland, Alameda and Berkeley, as well as certain local rates within those cities.

Application No. 860, filed on November 29, 1913, by the Southern Pacific Company, hereinafter called the company, asks for authority to maintain for the transportation of passengers on its lines between points within the city of Oakland a fare greater than 5 cents. Section 12 of the Public Utilities Act provides that the fares charged between two points within a municipality shall not exceed 5 cents, unless the Rail-

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road Commission so orders. The company desires to charge more than 5 cents between points on the so-called Melrose extension and certain other designated points in the city of Oakland.

The Oakland Chamber of Commerce and the East Oakland Protective League protested against the granting of this application and asked the Commission to require the company to desist from charging or collecting more than 5 cents for one continuous ride in the same general direction within the limits of the city of Oakland, alleging that higher fares than 5 cents within the limits of the city of Oakland are unjust, unreasonable and discriminatory.

The company, in its answer to the protests of the Oakland Chamber of Commerce and the East Oakland Protective League, denies that the fares complained of are unjust, unreasonable or discriminatory or that it is a street railroad, and asks for an order authorizing an increase in fares between all points in Oakland, Berkeley and Alameda and San Francisco.

Application No. 861, filed November 29, 1913, asks permission to increase the individual monthly commutation fares between San Francisco, Oakland and West Oakland on the one hand and Havenscourt on the other. The company alleges that it desires to establish the proposed changes in conformity to an understanding reached between it and parties interested in Havenscourt property.

The Oakland Chamber of Commerce and the East Oakland Protective League, on April 20, 1914, filed a protest against the proposed increases, and in addition a cross-complaint against the company's one way fare between points on the Seventh street line greater than 5 cents and against the individual monthly commutation fares and one way fares between San Francisco and all stations on the Seventh street line greater than $3.00 for commutation per month and 10 cents for single one way fares. These protestants ask the Commission to establish: *First,* a fare for one way, first-class continuous trip of 5 cents between all stations on the Seventh street line, including that part of this line known as the Melrose extension; *second,* one way, first-class continuous trip fare of 10 cents between all stations on the Seventh street line, including that part of this line known as the Melrose extension and the city of San Francisco; and, *third,* individual monthly commutation fare of $3.00 between all points on the Seventh street line, including that part of this line known as the Melrose extension and the city of San Francisco.

The company, in answer to the protest and cross-complaint, alleges that the fares therein questioned are unduly low, non-compensatory, and confiscatory, and in addition that all of its fares between San Francisco and all points served by its electric lines in Alameda County and between stations in Oakland and Alameda County are unduly low, non-compensatory and confiscatory, and that the revenue therefrom is

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insufficient to pay the cost of operation. The company asks to increase all of its fares between San Francisco and points served by its electric lines in Alameda County and between all points in Oakland and all points in Alameda County to a basis which to the Commission shall be found to be just and reasonable.

Application No. 1105, filed April 29, 1914, asks for authority for the company to increase its passenger fares between San Francisco and Alameda County points and between points within the county of Alameda, alleging that the present fares are unduly low, non-compensatory and confiscatory. This application embraces all of the issues raised in the preceding applications outlined herein and the two cases following.

Case No. 517 is a complaint filed by the Foothill Improvement Club against the Southern Pacific Company on December 11, 1913, wherein it puts in issue the reasonableness of the one way and monthly commutation fares between San Francisco and Havenscourt, Yokum avenue and Parker avenue. It is also alleged in this complaint that the fares attacked are discriminatory.

Case No. 519 is a complaint of Henry Warfield, filed December 15, 1913, wherein this complainant calls in question the one way and monthly commutation fares between Dutton avenue and San Francisco and the one way fares between Dutton avenue and Oakland. In this complaint the adequacy of the service of the company between San Francisco and Dutton avenue is also placed in issue, the contention being that an unnecessary transfer is required at Melrose and no trains are run between San Francisco and Dutton avenue after 9 p.m. The Commission is asked to readjust the fares complained of and to require the company to run through trains between San Francisco and Dutton avenue by way of Alameda Mole, and continue such service until 11 o'clock p.m. of each day.

The city of Oakland has intervened in all of these cases except Case No. 519.

The importance of these cases, both to the company and its patrons, cannot be overestimated. On the one hand we have the contention of the company that it is required not only to forego a reasonable return on the property devoted to this service but actually to conduct this service at an operating loss. On the other hand, in behalf of the patrons of the company, it is urged that the rates existing between San Francisco and Alameda County points are of long standing and that any increase therein will work a great hardship upon the residents of these cities.

A careful and *bona fide* effort on the part of the company has been made to show the real conditions surrounding the service here performed, and much testimony and many intricate tabulations, accompanied by statistical data, have been presented. We have given the

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case a great deal of study and we feel that its importance requires that a résumé of the evidence be herein set out.

The testimony shows that for many years the company has maintained the ferry and suburban service here involved and has charged the uniform rate of 10 cents for one way fares and $3.00 per month for commutation. Up to a few years ago steam equipment was used in conjunction with the ferryboats, but at the present time all of the lines have been electrified. The company operates the following lines in Alameda County devoted to suburban traffic solely:

1. Shattuck avenue, Berkeley, line. This line operates from Oakland pier to Thousand Oaks, via Shattuck avenue, Berkeley, a distance of 8.34 miles.

2. Ellsworth street, Berkeley, line, operating from Oakland pier over the same line as the Shattuck avenue trains to Ellsworth junction, thence branching off and operating along Ellsworth street. The total length of this line from Oakland pier to its terminus, the Berkeley campus, 6.81 miles.

3. California street, Berkeley, line, runs from Oakland pier via the same line as the Shattuck avenue trains take to California junction, near Sixty-first street, thence along California street to Thousand Oaks, tying in to the Shattuck avenue line. The distance of this line from Oakland pier to its terminus is 8.7 miles.

4. Ninth street line: This line operates from Oakland pier via the same line as the Shattuck avenue trains take to Ninth street junction in Emeryville, thence along Ninth street, Berkeley, to Albany, and around a loop to Thousand Oaks, making a connection with the California street and Shattuck avenue line at that point.

5. Seventh street line: This line runs from Oakland pier to Dutton avenue, Oakland, near the boundary line of the city of San Leandro via Seventh street, Oakland, branching off just beyond Sather and going through Melrose and Havenscourt. The distance from Oakland pier to Dutton avenue is 11.99 miles.

6. Peninsular Railway from Sixteenth street pier, Oakland, to Fourteenth and Franklin streets: This line operates along Nineteenth and Twentieth streets and for a part of the distance on Twenty-first street and along Franklin street, connecting with Sixteenth street depot and Fourteenth and Franklin streets depot. The length of this line is 2.26 miles.

7. Alameda Horse Shoe line: This line operates from Oakland pier via the Seventh street route to Fruitvale, thence around the loop and along Lincoln avenue to Pacific junction, a distance of 10.28 miles.

8. Cross-town street car line: This line uses the tracks of the Peninsular Railway between Sixteenth street pier and Fourteenth and Franklin street, thence along the Fourteenth and Franklin streets

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route until the draw bridge is crossed, thence across the marsh and along Encinal avenue around the loop beyond High street and back, via the Park street station and Lincoln avenue, a distance of 10.77 miles.

9. The Fourteenth street line runs from Alameda pier to Fourteenth and Franklin streets, a distance of 4:15 miles.

10. The Encinal avenue, Alameda, line runs from Alameda pier via Central and Encinal avenues to Lincoln Park, beyond High street, Alameda, a distance of 7.17 miles.

11. The Lincoln avenue line runs from Alameda pier via Lincoln avenue to Lincoln Park, at that point tying in to Encinal avenue line at Lincoln Park, a distance of 7.35 miles.

Generally speaking, it may be said that a twenty minute service until 8.20 at night is maintained on all the lines by way of the Oakland pier route, and a thirty minute service by way of the various lines through Alameda pier during the day, and a forty-five minute service during the evening hours. In addition to this there is a cross-town service between Oakland and Alameda. During certain hours of the day, when traffic is heaviest, the service is augmented by express trains. The suburban trains are operated at high speed and stop only at regular stations, with the exception of the street car service in Oakland and Alameda. The traffic is extremely heavy during two hours in the morning and evening, due to the heavy commutation traffic of persons residing in Alameda County and having their places of business in San Francisco.

The crew operating these trains, in addition to the motorman, consists on the average of one man for each car. The wages paid are from 58 to 60 cents per hour for conductors, 62½ cents per hour for motormen, and 30 cents per hour for gatemen and collectors. When the gateman performs the duties of brakeman the wages are at the rate of $90.00 per month.

The equipment is all modern steel construction.

Most of the lines of the company are in direct competition with the lines of the San Francisco-Oakland Terminal Railways Company, known as the Key Route. The Shattuck avenue, Berkeley, line parallels the Key Route line along this street as far as University avenue. The California street line parallels the Key Route North Brae line as far as Hopkins street, Berkeley, where the North Brae line of the Key Route crosses the company's line going in a northeasterly direction to North Brae. The Ninth street line comes into close competition with the Albany branch of the Key Route, which leaves the North Brae Key Route line a short distance above University avenue. The line from Sixteenth street depot to the Fourteenth and Franklin streets depot parallels the Key Route Twenty-second street line as far as Broadway. The Seventh street line of the company is in more or less direct com-

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petition with the Twelfth street line of the Key Route as far as Melrose.

In Alameda the company is without any competition in its suburban service.

Mr. McPherson, representing the company, testified that the line between Sixteenth street depot and the Fourteenth and Franklin streets depot was built to develop business and not to compete with the Key Route (Transcript pp. 273, 274 and 275). Mr. W. R. Scott, vice-president and general manager of the company, testified that the new lines were built and the old lines rehabilitated and electrified for the purpose of taking care of not only the present traffic but to provide for the necessities of the future; also, that from a business point of view, new lines were justified in connection with the rehabilitation of the other lines and to protect the traffic of the company in the future. He denied that this necessarily meant competition with the Key Route (Transcript pp. 497 and 498).

The company places a valuation of its suburban electric system and a part of the joint facilities which on its basis of apportionment are properly chargeable to the suburban service, including ferryboats, at the sum of $26,553,667.48. This sum is arrived at by taking the reproduction value of the steam lines as of June 30, 1910, and adding thereto the cost of electrification of the steam lines and construction cost of electric road extensions, and in this manner bringing the total value up to June 30, 1913.

The engineering department of the Commission reports that on the basis of apportionment adopted by the company its valuation is reasonable and that it could not be reduced to any appreciable extent.

From a statement filed by Engineer Pope of the company he estimates the value of the steam lines as of June 30, 1910, as $13,076,698.00, to which should be added $1,607,634.00 as the proportion of Oakland pier chargeable to the suburban system and $2,102,324.00 representing the proportion of the ferry steamers and the boat yards chargeable to the suburban system. Thus, according to Mr. Pope's figures, the valuation of the steam lines engaged in the suburban service as of June 30, 1913—provided the same ferry equipment was necessary in 1910 as is now necessary—we have a valuation of $16,786,656.00, and the difference between this and the total valuation of $26,553,667.00, or $10,000,000.00, represents the cost of electrification and the extensions of various electric lines.

At the time the electrification was completed in 1910, a $3.00 monthly commutation rate and a 10-cent one way fare were in effect. While the equipment was not entirely worn out, it had in effect become obsolescent, and the same may be said for any of the remaining property which could not be used after the electrification took place.

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We have no evidence showing the cost of operating before electrification, and while this Commission should under no circumstances suggest that improvements and substitutions, such as those brought about by the company in electrifying these lines, should be made without hope of return on the part of the agency making them, yet it is well to bear in mind that often it is necessary to build for the future; and if, as a matter of fact, the officials making the substitution were aware that under the then existing arrangement an adequate return would be made, yet under the substituted arrangement such an adequate return could only be expected after a considerable lapse of time, this fact should be considered in passing upon an application to increase rates subsequent to the change. For example, one might own a ferryboat which would be just adequate to handle the existing traffic but which was becoming worn out and would have to be replaced. If the traffic was increasing and wise foresight indicated that within a reasonable time a similar boat to the one in use would not be adequate, such wise foresight would justify the purchase of a boat with capacity in excess of the present needs, but it would not necessarily follow that the interest on the added property and the increased cost of operation should fall upon the present traffic when the larger facility was secured to supply the needs of future traffic. We shall discuss this aspect of the case further later on.

It is well to note in passing that neither as regards the present property nor the steam equipment for which this property has been substituted is any depreciation or obsolescence taken into account. The valuation presented assumes that the property is as valuable as when new. It should be noted that the ferryboats, for example, are from six to twenty years old, yet their cost to reproduce new is assumed to be their present value. For the purposes of this case it will not be necessary to discuss the question of depreciation in detail, but we have no hesitancy in saying that we do not believe the cost to reproduce new ordinarily represents the present value of the property. This contention is advanced on the theory that inasmuch as the property performs at 100 per cent efficiency, therefore it is as valuable as though it were entirely new.

In another case now pending we shall discuss this question of depreciation in detail, but it is worth while to point out in passing that the company's engineers here have overlooked one important fact, and have forgotten that if value is to be determined by the work which can be performed by any agency considered, that the amount of work which can be done in any unit of time is only one of the factors, and the second factor is the number of units of time the agency in question will be able to perform this amount of work.

One of the very important issues in this case is the proper apportion-

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ment of the facilities used jointly between the suburban traffic and the main line traffic. It is in evidence that the ferryboats and a considerable portion of the other property of the company in Alameda County are devoted jointly to the suburban and main line traffic. The contention of the company is, however, that as a rule the apportionment should be made on the basis of the number of passengers carried. There is a further necessity of apportioning the cost of the suburban service between the electric lines and the boats, and this necessity of apportionment leads to many of the complications in the case.

Oakland pier is divided on a basis of 50 per cent to the main line traffic and 50 per cent to the electric line traffic, on the theory that steam and electric line mileage is equal. Engineer Pope of the company testified, however, that the center of the Oakland pier terminal building and the north side were used exclusively for steam trains while the south side was used only for electric trains, and that in his valuation of the Oakland pier property he had included only the property, tracks and structures at Oakland pier which were used by electric trains. According to "Exhibit 2," as we understand it, it would nevertheless appear that the entire Oakland pier, including the building, is apportioned on a basis of 50 per cent each to steam and electric lines, regardless of the fact that the electric lines occupy only one third of the ground.

The total value of the floating equipment operating between Oakland pier and San Francisco is $790,600.00, assuming this equipment is to have the same value as new equipment. Of this amount $684,659.60 is charged to the electric system on the basis of the number of passengers carried, it having been determined by the company that 13.4 per cent of the passengers traveling between San Francisco and Oakland pier used its steam trains and 86.6 per cent traveling over the same route used the electric trains.

The total value new of the floating equipment used in the Alameda pier service which is exclusively charged to electric lines is $752,567.00.

The company places the total value of the boat yards at $2,124,954.00. This valuation is divided between transbay ferry lines and other boat lines on the basis of the cost of repairs to the boats engaged in each particular line of service for the four months' period from January to April, 1914, inclusive. On this basis the Alameda pier line is charged with 17.5 per cent of the total value of the boat yards, or $372,504.43. The Oakland pier steam and electric lines are charged with 15.9 per cent, or $337,867.69, and from this latter amount there is charged to the electric lines on the 86.6 per cent basis the sum of $292,593.41. It is very evident that for some reason the Alameda pier line is charged with a disproportionate amount, inasmuch as it carries by far the smaller number of passengers, even considering the suburban traffic alone, while it is assessed the larger proportion of the value of the property.

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The same basis of apportionment of the expense of operating these facilities between the suburban traffic and the main line traffic is used as was adhered to in the apportionment of the property involved, that is on the basis of the number of passengers carried. This basis is departed from in the case of the ferry waiting room, which is apportioned on a 50 per cent basis to each class of traffic.

On the basis of apportionment adopted by the company we have the following estimate of a year's operation of these suburban lines based on the figures for four months, namely, January, February, March and April, 1914:

Operating revenue	$1,585,404 09	
Operating expense	1,767,041 28	
Deficit		$181,637 19
Other expenses, taxes, etc.		213,449 16
Net operating deficit		$395,086 35
Interest at 7 per cent on $26,908,885.48		1,841,618 46
Gross deficit		$2,236,704 81

Average loss per passenger carried, 11.7 cents.

The company made a four days' check on all of the electric lines, to determine the number of passengers patronizing the various lines, to arrive at the approximate distance each passenger was carried on the electric system, for the purpose of making an apportionment of the revenue between the various electric lines and the boats. This result is contained in the company's "Exhibit 2."

It is in evidence that the franchises granted by the city of Berkeley for certain of the electric lines here involved (Ordinance 550-A, December 11, 1908; Ordinance 58 N. S. of March 29, 1910) contain provisions to the effect that the company shall maintain a one way fare of 10 cents and an individual monthly commutation fare of $3.00 between the city of Berkeley and the city of San Francisco. Likewise Ordinance No. 413 of the city of Alameda of January 18, 1904, covering Lincoln avenue, has a similar provision as does Ordinance No. 414 of the city of Alameda covering Central and Encinal avenues.

Oakland pier was constructed by the company and its predecessors. Much litigation has been carried on between the company and the city of Oakland over the ownership of this pier, and finally by agreement the company was given a franchise for fifty years to operate over the pier, thereafter the property to revert to the city of Oakland. The company arrives at a valuation for this pier and apportions such valuation over the fifty years of the franchise so that within that time it shall have had returned to it the value of this property. It is contended by the protestants that inasmuch as this pier has been in existence and in use for a considerable period already, in the neighbor-

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hood of thirty years, if an arrangement is to be approved whereby its value is to be returned to the company at the expiration of its right to use it, it must be assumed that it should have returned to it for each one of the fifty remaining years during which the right to use exists one eightieth instead of one fiftieth of its value. It is also contended by the protestants that the Alameda pier is not necessary to this suburban service. It is shown in the evidence that this pier was originally constructed by the South Pacific Coast Railroad, an independent company, and that when constructed it was the terminus for the line of this company and was used jointly for freight and passengers and for suburban and main line traffic. The contention now is that for the amount of service rendered by the Alameda pier facilities the value of the property and the operating expenses are excessive.

The Foothill Improvement Club and Henry Warfield, complainants in the two cases here involved, as well as the East Oakland Protective League in its cross-complaint, base their contention for a lower rate to Dutton avenue on the existing rates to Stonehurst, which contemplates an electric service to Melrose and a steam service from Melrose to Stonehurst. It is also urged that the jump in the commutation rate beyond Seminary avenue is unjustified. The present one way fare from San Francisco to Stonehurst is 15 cents and the monthly commutation rate $5.00; the distance is 14.3 miles. The one way fare between Oakland and Stonehurst, which includes all points on the Seventh street local line as far west as West Oakland station, is 5 cents. The distance from West Oakland station to Stonehurst is 9.3 miles. The monthly commutation rate from Oakland to Stonehurst is $2.50, but this rate does not apply west of Broadway. The distance from Broadway to Stonehurst is 7.6 miles. The monthly commutation rate from Oakland, First street or Seventh and Broadway to San Leandro, a distance of 8.1 miles, is $2.50 by way of the electric line to Melrose and the steam line thence to Stonehurst. Or if the passenger boards the train at First and Broadway this rate applies for the steam line service over the entire distance. From First and Broadway or Seventh and Broadway to Hayward, a distance of 13.4 miles, the commutation rate is $3.00. It is, therefore, pointed out that for the additional distance of 5.3 miles to Hayward beyond San Leandro but 50 cents is added to the monthly commutation rate to San Leandro, while for a distance of .8 mile between Seminary avenue and Havenscourt on the Melrose extension the rate jumps from $3.00 to $4.75. The company contends that the rate to Hayward was put in in competition with the Oakland Traction Company's electric line to Hayward, but the fact remains that the Oakland Traction Company's rate at the time this $3.00 commutation rate to Hayward was established was $5.00 between Oakland and Hayward.

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As bearing upon the alleged discrimination in denying to points on the Dutton avenue line the 5-cent fare to other points in Oakland, it is pointed out that the 5-cent fare applies from all points on the Seventh street line to Stonehurst and that the distance from West Oakland to Stonehurst is 9.3 miles. Likewise the fare from West Oakland by way of the Horse Shoe line to Alameda for a distance of 9.7 miles is 5 cents. The fare, however, from West Oakland to a point 9.7 miles from West Oakland on the Melrose extension, about One Hundred and Fifth avenue, is 20 cents, and from Seventh and Broadway to Dutton avenue, a distance of 8.9 miles, the fare is 20 cents.

It is urged that the practice of the company to charge 5 cents between Stonehurst and all points within the city limits of Oakland on this line is discriminatory against the points on the Melrose extension in that for similar and shorter distances as high as 20 cents is charged.

The foregoing statement covers the substantial points brought out in the evidence. Very little controversy exists as to many of the facts, but wide divergence of opinion is found with reference to the significance of such facts. It is proper preliminary to a decision herein to discuss the various controverted questions. These are:

1. Apportionment between main line and suburban traffic:
   (*a*) Value of property;
   (*b*) Expense;
   (*c*) Depreciation.
2. Competitive lines.
3. Justification for electrification, with particular reference to present and future traffic.
4. Justification for segregating suburban traffic from entire business of road.
5. Effect of the voluntary according by the company of the rates now sought to be raised.
6. Discriminatory character of rates between Oakland points.

1. *Apportionment between main line and suburban traffic.*

We have already discussed the question of depreciation and obsolescence to a sufficient extent to indicate our opinion with reference thereto, and we need not further consider that subject here. A discussion of the apportionment of the value of the property and the expense of doing the business between suburban and main line traffic may be properly carried on together. We can see no justification for the position assumed by the company with reference to the cost of the pier and the distribution of the expense. This important property is now sought to be treated by this company exactly as though it were owned in fee simple. That is, it is assumed that during the fifty years' right to use remaining to the company there shall be returned to the company annually an interest upon the entire value, and in addition

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thereto, a sufficient amount so that at the expiration of the term the company shall have received an amount equal to the total present value of the property. In other words, it is assumed that reversionary interest belonging to the city of Oakland is at the present time valueless. With this contention we do not agree. Assuming that this property has been in use thirty years, which, added to the fifty years yet remaining, would make a total of eighty years during which time the company will have used this facility, it can not even then, as contended by the protestants, be logically held that one-eightieth of the present value shall be returned annually to the company. Where, as here, a utility has made improvements upon a property to which it has no title, the most that could be expected by such utility would be the return of the cost incurred by it, and there should be added to its expense the fair rental value of the property used during the term. Under the theory of the company here, while the city of Oakland, as a municipality, will not have been required to pay this company for the property which the company does not own, yet the residents of Oakland, Alameda and Berkeley, in fares, will be required to do so, if the contention of the company is correct. In short, the company is in no worse position, if we grant it what it asks in this regard, than though this property belonged to it outright. We do not intend to suggest a substitute for the theory advanced by the company or the one urged by the protestants. In a proceeding such as this, wherein rates are to be raised, the burden must be assumed by the company to prove its contention, and while it is not for this Commission, under any circumstances, to resort to technicalities in order to bring about any particular result, yet, under the peculiar circumstances of this case, more than any other case presented to this Commission, the strictest adherence to proof on the part of the company seeking to raise these rates must be insisted upon. We shall discuss the reason for this position in another branch of the case.

Considerable discussion and some evidence was introduced touching the character of the suburban business as being a by-product of the main line traffic. Likewise, it was urged that we were as much justified in assuming the main line traffic to be a by-product of the suburban traffic. The situation is very simple with reference to this matter. It may be urged that the proper way to determine the portion of the property and expense rightly chargeable to the suburban traffic, is to assume the elimination of the main line traffic and then determine how much property would be used and how much expense incurred in conducting the suburban traffic alone. With equal plausibility, however, it may be urged that the same method may be adopted in determining the property and expense necessary for the main line traffic. Adopting one of these theories in one instance and the other in another, it readily appears that we shall have a combined property and a combined expense

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much in excess of the property and expense actually found necessary for the combined business. Unquestionably, from the evidence, a somewhat greater investment in ferryboats would be required to handle the ferry traffic alone than would be required to handle the main line traffic alone. But the evidence does not convince us that this is true with reference to any other expense or any other property, but we disagree so entirely from the company in its apportionment that we shall not consume much space in a discussion of it. It is unquestionably true that if either business is by-product, it must be the suburban traffic. Take the condition which confronts the Santa Fe or the Western Pacific and if these companies had as much main line traffic as the company here involved, we would be in a position directly to determine the amount of property and expense necessary to carry on the main line traffic. However, these companies do not, of course, transact nearly as much main line passenger business in to and out of San Francisco as the Southern Pacific Company does over its Oakland pier route, and so it is impossible to make a comparison. However, it appears from the evidence and, of course, is a matter well known to all familiar with this situation, that the important business to the company is its main line traffic. Extraordinary expense may be required to transact a necessary portion of a railroad's business, which expense would not be justified if it were not for the fact that the entire or a great portion of the business of the road is dependent thereon. The Southern Pacific Company must operate these ferryboats for its main line traffic and must maintain its terminal facilities at the Oakland pier. Its failure to do so would be disastrous to its San Francisco passenger business. Therefore, every suburban passenger carried on every boat which is necessary for the transcontinental or local main line business of this carrier is by so much an advantage. The same may be said of every item of its expense incurred and every portion of its facilities used jointly between the two kinds of traffic. The franchises for joint facilities are also thus affected.

It is a fundamental rule recognized by all carriers and by other utilities as well—and as far as that is concerned, by all businesses—that ordinarily, as the amount of traffic or business increases, the cost per unit decreases. If this were not true, it would be hard to account for the great number of freight and passenger agents constantly seeking business and the great number of commercial travelers and solicitors doing likewise for other classes of business in competitive industry. The ability to get a large amount of business always redounds, partially at least, to the benefit of the patrons of such business, due to the fact that if the business is purely competitive and there be no combinations, those in control of such business always have a tendency to accord to their patrons the lowest rate which may be accorded and leave the business profitable. In the case of natural monopolies, such as railroads, where of necessity competition can not have full sway, one of two forces must

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bring about the same result, namely, fear of future competition if the rates are maintained on too high a scale or regulation. The former of these forces is always less effective as the magnitude of the enterprise and the cost to carry it on increases.

By reason of these fundamental considerations, it should always result that as business increases in volume the agency in control of such business, if it be a regulated industry, must transact each unit of such business at a smaller expense to the patron. The service performed for the transcontinental or local main line passenger by the terminal and bay facilities of the Southern Pacific Company can not from its very nature be compared to the service performed for the local suburban passenger. The service performed for the main line passenger is an essential part of a large service, essential to such service and without which such service could not be rendered. The patron of the railroad enjoying such service has a right to be protected from higher charges by reason of such service being performed jointly with some other service, and, in fact, a proper portion of the saving, if a saving be made by reason of the joint service, such patron has a right to demand. The cost to him of his entire service may be five or one hundred dollars, where the necessary cost to the commuter may be 5 or 10 cents. To the main line passenger, both from the standpoint of the necessary expense which can be incurred by the company in order to secure this traffic and the value of this service to the patron, so often urged by the railroad lawyer, the rate may legitimately be higher. In short, from the standpoint of what the traffic will bear, a sufficient and legitimate doctrine, if properly understood and circumscribed, but not as usually urged by the carriers, the apportionment here must fall, for the limiting maximum rate beyond which the carrier may not go and hold his traffic is always the amount the patron can afford to pay, while the limiting minimum rate below which the carrier can not afford to do the business is the actual added cost to the carrier of such business over the cost such carrier must for other and independent reasons incur. In short, it has appeared to us that both the courts and commissions have been in error in determining the lowest rate that a utility may reasonably and lawfully afford. This rate, the courts and commissions to the contrary, notwithstanding, may be and often is below the actual cost of performing an average unit service. For example, in the case of a hydroelectric company, it may be that the actual units of power available, cost, unit for unit, a certain amount in actual out-of-pocket expenditure. Therefore, if we view this subject superficially, we would immediately say that this company could not afford to furnish its commodity at a less rate than the actual out-of-pocket cost per unit. But on inspection, it may appear that by reason of the impossibility of operating in every instance to maximum efficiency, there is excess property and excess expense incurred in performing the total service performed at any one time, which will not be

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appreciably, if at all, increased by performing some additional service. Therefore, when it becomes a question of performing or not performing the additional service, under the circumstances stated, the utility does not and should not look to the average expense of performing the unit of service, but looks to the added cost and the added revenue alone, which added cost may be much less than the average cost per unit and which added revenue may be less than the average revenue that must be required per unit. Therefore, in determining whether or not such added business shall be done, the considerations we have herein discussed are the ones a wise economy will require to be studied.

Suburban traffic is essentially a wholesale traffic. Suburban rates are essentially wholesale rates. Therefore, it is violative of fundamental rules of rate-making to apply units of expense and enforce divisions of property on an equality with a service which is essentially different and essentially retail. Therefore, without going into this matter further, it conclusively appears to us that such a fallacy exists in the method of apportionment, both of property and expense, between main line and suburban business that here again it may be said that the company has not sustained its burden of proof.

2. *Competitive lines.*

In discussing the evidence, it has already appeared that many of the lines of this company are in direct competition with the lines of the San Francisco-Oakland Terminal Railways. We have so often expressed ourselves on this question that we think it unnecessary to again discuss it extensively. Competition between natural monopolies and regulation of natural monopolies are inconsistent. If competition is to exist between natural monopolies and the rights of the public are to be enforced through competition, then the state should go no further than to see to it that actual competition exists and that no combinations of the slightest binding effect are permitted. Under such competitive arrangement there will be the tendency on the part of the owners, if absolutely independent from their beginnings in the money sources down to their actual minutest operations, to take the smallest return on their investment possible and to enforce the greatest economies that can be brought about. Inevitably, if any patron or any locality is so unfortunate as to be outside the influence of this competitive force, such patron and such locality, in the absence of regulation, must expect to pay every cent that can be extorted, unless the conditions are such that the fear of competition and of rivalry for the business of such patron or community minimizes the severity of the extortion.

On the other hand if regulation is to assume the function that it is attempting to assume in most of the states and in the federal government, as far as railroads are concerned, it can enforce, if it is adequate to the job, the efficiency and the economy that we have shown competi-

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tion tends to enforce without the duplication. The total sum which is necessary to be paid for service by a natural monopoly will, of course, be less if the minimum amount of investment which is required to perform the service be made. This is so simple that we are at a loss to understand the difficulty with which some people grasp it. It will be noted that we have said "the sum necessary to be paid." Of course, under inadequate regulation, the sum that is paid is often greater and the service that is performed is usually inferior without competition than with it. But it does not follow from this that with strong laws and competent officials to enforce them, one street railway line on a street can not be required to furnish a better service at a lower rate than can be accorded by two street car lines doubling the investment and dividing the revenue. Regardless of the position which may be assumed in favor of competition or regulation of natural monopolies, still it is certainly true that the public should not be required to accept the evils of both. The evils of competition are duplication of facilities and a necessarily high cost per unit of service. The evils of monopoly in a natural monopoly field are disinclination on the part of those in control of such monopoly to give good service and to accord reasonably low rates. In the case at bar we have it urged that the entire value of competing lines and the entire expense of operating them shall be saddled upon the patrons, regardless of the fact that these lines are admittedly not operated nearly to efficiency. Neither the law nor justice requires this to be done. The attitude of city authorities, however, too often possessed of a merely superficial understanding of the important questions involved, in giving franchises to competing natural monopolies bringing about such duplication of facilities, as unquestionably exist in this case, should be condemned, unless such city authorities incorporate conditions in the franchises granted which will require the utility accepting the franchise to accord as low a rate and as good a service as can be forced if the facilities are not duplicated; and unless, further, such local authorities have a right to expect that they can force the performance of a service demanded in a franchise, even though the agency accepting the franchise has not the financial ability so to do.

It should be borne in mind, however, even by the most superficial, that service must be paid for by some one. If the one legally obligated to perform it is financially unable, by reason of the conditions imposed, to perform, some one else will have to be substituted. Patrons can not secure service for less than the cost of performing it, unless some one else pays the difference between the actual cost and that received. In other words, even boards of city trustees can not force the impossible.

We do not believe that under the circumstances under which certain suburban lines of the company were constructed in Oakland and Berkeley, this company has a right to impose upon its patrons a rate

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sufficient to return to it the amount which otherwise should be returned, on the ground that it has constructed facilities in excess of the necessities of the patrons.

3. Justification for electrification with particular reference to present and future traffic.

We believe without question that the company was justified in the electrification of these lines. We are, however, not of the opinion that it was justified in the construction of some of the added lines, except in contemplation of increased traffic in the future. Utilities are always required to have an eye to the future, and they should ultimately be paid for the expenditures made. But one of the elements always urged in a valuation case as a part of the value of the property is the cost of development of business and the interest on the money necessarily idle during the development period. If the development period is not too long and the lines are wisely constructed, there can be no question that a proper return should ultimately be had from subsequent traffic. But it is idle to urge that where facilities are constructed in excess of present needs the rates to the present comparatively few patrons should be so arranged as to give an immediate return. The Supreme Court of the United States has many times discussed this, and of course the rule is well established that facilities constructed in excess of the needs of the patrons may not be made the basis for unreasonable burdens upon the present consumers. Except in the case of certain paralleling competitive lines, we have no question that ultimately the great development that is to come to Alameda County will repay the company for its forehandedness in electrifying and improving these lines. But we do not believe that the officials who advised the electrification and the extensions of these lines for a moment expected at the time of such improvement that the rates would be other than these that have existed so long. The record conclusively shows, as heretofore pointed out, that it was understood when these lines were constructed and these improvements made that such construction and such improvements were made in contemplation of future rather than present needs.

4. Justification for segregating suburban traffic from entire business of road.

We have already discussed in the first division of these comments the fundamental principles involved in this question. The company, however, having failed in sustaining its burden with reference to the proper segregation of property and expenses between suburban and main line business, we believe more than ever we are justified in looking to the general financial condition of this carrier.

As we have already said, the main line passenger has a right to protest if his rates are made high by reason of the suburban traffic. Such, how-

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ever, has not been shown to be and we do not believe is the fact. Regardless of the protestations of the representatives of the company to the contrary, it is our opinion that this suburban traffic is a good thing for the company and that it does not add in anywise to the burden of the main line passenger or to the shipper of freight. But even if temporarily there should be a loss we have already pointed out that such loss may be justified in contemplation of future business and that some of this loss may be borne by the stockholders of this company by reason of the building of unnecessary competitive lines.

Testimony was introduced showing the general financial condition of this company, and while at the present time it is difficult for any one to borrow money, still this company is in very good financial shape and is carrying on an extremely profitable business. In fact, it is in evidence that these very suburban lines were built in their entirety from earnings, as is likewise the case of the double tracking across the Sierras and various other improvements that have been and are being made by this company, and this in addition to a 6 per cent dividend upon its stock. All of which indicates that this company is making, viewing its business as a whole, much beyond 6 per cent net, because the re-investment from earnings in capital account, of course, is as much in effect a dividend as the actual taking of the money from the treasury by the stockholders.

5. *Effect of the voluntary according by the company of the rates now sought to be raised.*

For many years the rates here involved have been in effect. We hear much of confiscation on the part of utilities, and it is now being urged that confiscation results when anything less than the current rate of interest is earned. While, of course, we can not agree that from a strictly legal viewpoint such a contention is correct, yet we are very willing to admit that regulating bodies should never aim to make their rates so low as just to avoid legal confiscation. In the case here involved, however, we feel no hesitancy in saying that the strictest presumptions of law should be adhered to against this company, not for the purpose of confiscating its property but for the purpose of preventing the confiscation of tremendous values in the property of the residents of Alameda County. Thousands upon thousands of people have built their homes in these suburban communities and have paid prices for their property in contemplation of the reasonableness of these rates voluntarily accorded by this carrier. When through a long period of years a transportation company has voluntarily accorded a rate to a community on the faith of which large investments have been made, and when again the same agency has voluntarily and under no legal compulsion incurred great expenditures and largely extended its facilities, the prima facie reasonableness which attaches to voluntarily accorded rates

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becomes, if not conclusive, very strongly persuasive upon any regulatory authority.

An increase of the commutation rate alone will confiscate or take away from (the term used is immaterial) the value of the residences of every person in the territory here involved who is forced by business reasons to commute to San Francisco. Confiscation in this case looks both ways, and it does not lie in the mouth of this carrier to urge its own confiscation in utter disregard of the confiscation which it, if permitted to have its way, will have brought about among innocent people who are its patrons. Besides, we do not treat as lightly the provisions in the franchises granted by the municipalities involved as the company seems willing to do. While one may be able legally to avoid a voluntarily assumed obligation, still such a one should not be permitted to invoke the rule laid down for the benefit not of itself but of third parties. The rule that contracts of public utilities may be avoided is a rule of public policy, and does not at all subtract from the moral obligation of the contracting parties. If any one has taken advantage of his power to extort to make an unconscionable contract, or if a utility has entered into a contract the enforcement of which will work a hardship upon patrons not parties thereto, such contract may be set aside, not in the aid of the party offending but in the aid of innocent people. Regardless of the enforceable provisions of these franchises, the company, having accepted the benefit with these conditions annexed, should in good conscience be required to assume the burden.

6. Discriminatory character of rates between Oakland points.

As already pointed out, the Public Utilities Act provides that no fare in excess of 5 cents shall be charged between two points within the same municipality, except on approval of the Railroad Commission.

Such a mass of confusion exists on the lines of this company with reference to this 5 cent fare that it becomes a difficult matter to adjust. We assume that the theory upon which the legislature passed this section was the same as that announced by the Supreme Court of the United States in the *Russell* case, and is that the franchise to do business within a municipality exists as to all portions of the municipality, and such being the case a uniform rate might apply both for short and long distances.

However this may be, the amount of traffic is inconsiderable and we do not believe the evidence in this case justifies the Commission to make an exception from that imposed by law, with the possible exception of the rate applying to and from Oakland pier. No one, except those desiring to take the trains of the company, ordinarily need go to Oakland pier. It is not a portion of the business or residence section of the city, and certainly no street car characteristic exists with reference to any traffic into or out of this pier. As far as the Seventh street line is concerned, and other lines in the city of Oakland, while they are not

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essentially street car lines, still operating on the public streets and stopping at comparatively short intervals they furnish for some people a substitute for street car service.

We, therefore, shall recommend an exemption from the 5-cent fare provided by the Public Utilities Act with reference to trips to and from Oakland pier alone.

As to the fare between West Oakland and Sixteenth street and all other portions of the city of Oakland, the uniform 5-cent fare as provided in the Public Utilities Act should be established.

We are of the opinion that the company has been very considerate of the people of the east bay territory in the extension of its lines and the extension of its $3.00 commutation and 10-cent single fare rates. Such fares, when not voluntarily accorded, of course, must end somewhere. We are of the opinion that as to the portions of these east bay cities and Alameda County other than those points to which the $3.00 commutation rate and the 10-cent single fare rate have been heretofore voluntarily accorded or established, the company should not be required to accord them. There is such a mass of confusion, however, with reference to this matter, and so much inconsistency, that we think it will be better for the representatives of the company, the protestants and the rate department of this Commission to get together, with a view to arranging a uniform and proper scale of commutation and single fare rates between San Francisco and points not now accorded the $3.00 monthly commutation rate and the 10-cent single fare rate. It should be understood that the inclination of the Commission is to hold that Seminary avenue and the other outside points to which these fares apply shall be the limit for the present time of such fares, and that they should be graded up to territory beyond such points. As far as the Stonehurst line is concerned, it would appear from a comparative standpoint that these rates are low, and it may be necessary, if a final order shall be entered in this particular branch of the case, to raise some of these rates in order to make the scale of rates consistent.

It may appear that we do not appreciate the diligent effort of the company to present all of the facts surrounding this case. We do appreciate this, and we also appreciate the fact that this company is giving a tremendously valuable and efficient service to these Alameda County points, and while, as we have said herein, the company should be held more strictly to account in according these rates in the future which it has voluntarily accorded so long in the past and on the faith of the continuance of which so many people have acted, yet we do not believe that this should be made the basis for forcing this company, by reason of alleged discriminations, further to extend these commutation rates to territory not presently profitable, nor that these rates should be taken as a basis for comparison in other territory not similarly affected. The fact

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that this transbay service to Alameda County points is of such a nature as it has been found to be and was admittedly in the beginning entirely and is still largely a by-product service, added to the further fact that the traffic is very dense for a considerable portion of the day, makes it improper to compare this service with other service where such conditions do not exist. The facts in any other case presented to this Commission must determine such case; and it might be that conditions exist that justify for similar distances even a lower rate, or they might justify a much higher rate. The mere fact that these rates are accorded for a prescribed distance in Alameda County means no more as a basis for comparison than the comparative rates presented by the company in this case for similar distances in other localities under dissimilar conditions.

We have given this case a great amount of study and have endeavored to the best of our ability to set out the reasons which move us to the determination upon which we have decided.

We suggest to the people of Alameda County, particularly those engaged in the opening up of new tracts for settlement, that they in the future should not proceed on the assumption that this Commission will require this company further to extend its $3.00 monthly commutation rate.

We submit the following order:

ORDER.

The Southern Pacific Company having filed its Applications Nos. 860, 861, and 1105, and Henry Warfield having filed his Complaint No. 519, and Foothill Improvement Club having filed its Complaint No. 517, which various applications and complaints bring to issue the commutation and one way fares between San Francisco and certain indicated Alameda County points, and likewise certain commutation and single fare points within the county of Alameda, and by agreement all of these cases having been combined, and a hearing thereon having been heard, and being fully apprised in the premises,

It is hereby ordered that the applications hereinabove referred to be and the same are hereby denied.

It is further ordered that complaints hereinabove referred to be and the same are hereby dismissed.

It is further ordered that within twenty (20) days from the date hereof the Southern Pacific and the other interested parties herein present in writing to this Commission their proposed schedule of rates to and from the points beyond Seminary avenue and upon the Stonehurst line, both for commutation and single fares, in accordance with the suggestion made in the opinion hereto.

Unless an amicable arrangement of those issues not determined herein can be reached this Commission will make a subsequent order with

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reference thereto, and those portions of the applications and complaints applying to the rates here involved are reserved for such future determination.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of October, 1914.

Decisions Nos. 1864, 1865, grade crossings; not printed. See end of volume.

DECISION No. 1866.

IN THE MATTER OF THE APPLICATION OF HERMOSA BEACH WATER COMPANY TO SELL AND OF HERMOSA BEACH WATER CORPORATION TO BUY A CERTAIN WATER SYSTEM, AND OF HERMOSA BEACH WATER CORPORATION TO ISSUE BONDS OF THE PAR VALUE OF EIGHTY THOUSAND DOLLARS, AND STOCK IN THE SUM OF SIXTY THOUSAND DOLLARS.

Application No. 1346.

Decided October 13, 1914.

Hermosa Beach Water Company authorized to sell its water system serving the city of Hermosa Beach to the Hermosa Beach Water Corporation, and the latter company authorized to issue $65,000.00 face value of bonds and $35,000.00 par value of stock in exchange therefor, provided that before Hermosa Beach Water Company may transfer its system it shall first have discharged all its outstanding indebtedness or made satisfactory arrangements with the creditors.

W. J. Carr, for Applicant.

Theo. L. Breslauer, for the Neptune Meter Company, a creditor.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

It is proposed to transfer all of the property of Hermosa Beach Water Company to Hermosa Beach Water Corporation, in exchange for which the latter corporation is to issue and deliver $65,000.00 face value of bonds and $60,000.00 par value of capital stock.

The Hermosa Beach Water Company is now, and for several years past has been, operating a water producing and distributing system which has furnished the city of Hermosa Beach and adjacent territory with water.

A valuation of its plant has been made by Mr. Burdett Moody, a consulting engineer, which valuation was introduced in evidence at the hearing herein. This shows, as of January, 1914, a present value

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of $115,066.62, since which time this company has withdrawn from the city of Manhattan Beach, with a resulting loss of a considerable portion of the value of its plant in that city.

For the purpose of this hearing, Mr. Moody revised his original valuation, leaving out of consideration the plant in Manhattan Beach, and his report presents a present investment value as of January, 1914, of $100,495.17. However, there was considerable salvage on the Manhattan plant, estimated by applicant to be $5,500.00, and in addition there has been added to plant since the valuation of Mr. Moody, the sum of $3,000.00.

Without definitely concluding that the valuation presented is accurate in every detail, I am convinced from the evidence submitted that there is ample tangible property in the plant of applicant to warrant the issuance of $65,000.00 face value of bonds at this time, and that the income of applicant is sufficient to pay a reasonable interest on said bonds. The amount of interest to be paid and the amount of capital stock to be authorized is left to the discretion of the Commission.

The reason for this transaction is set out in the application as follows:

> On or about October 1, 1913, the El Sobrante Land Company acquired all of the capital stock of the Hermosa Beach Water Company by exchanging therefor a large tract of land in Riverside County. This land was subject to a mortgage. In order to secure the release of the mortgage upon this land, and to effect the exchange, the lien of the mortgage to the extent of $52,800.00 was transferred to the stock of the Hermosa Beach Water Company issued to the El Sobrante Land Company. In order to prevent a change of control and management of the Hermosa Beach Water Company, it has become desirable and necessary to extinguish the said lien on the stock of said company. The only way whereby the present owners of the Hermosa Beach Water Company can extinguish this lien and continue the management of the property of said company along its present lines is to issue bonds against the property of the company, sell said bonds and pay the amount of said lien.

Hermosa Beach Water Corporation has been organized with a capital stock of $100,000.00, divided into shares of a par value of $1.00 each. This new corporation is to acquire the property of Hermosa Beach Water Company in exchange for $65,000.00 par value of bonds, and such capital stock as the Commission will authorize, whereupon it is proposed to dissolve Hermosa Beach Company and to distribute its only assets, to wit, the bonds and stock, to the sole stockowner thereof, El Sobrante Land Company, whereupon the latter company will either sell these bonds for sufficient to pay off the encumbrance of $52,000.00 on the capital stock of Hermosa Beach Water Company, or will deliver the $65,000.00 par value of bonds to such lien holders in exchange for their release of the lien. Hermosa Beach Water Corporation asks authority

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to execute a trust deed upon all of its property, now owned or hereafter acquired, as security for the issuance of $80,000.00 face value of bonds, $65,000.00, however, only to be issued at the present time as above set out, the remaining $15,000.00 to be held in reserve for betterments and additions to plant as needed, and as hereafter authorized by the Commission.

At the hearing a creditor of the Hermosa Beach Water Company appeared and asked that inasmuch as the entire property of the debtor was to be transferred and put under the lien of the trust deed aforesaid, thus subordinating his claim to that of the bondholders, that this indebtedness be safeguarded by the Commission in its order. It was thereupon agreed that the Commission's order should contain a provision that before the Hermosa Beach Water Company should be dissolved, or the bonds received from the Hermosa Beach Water Corporation be disposed of by the Hermosa Beach Water Company, that the claims of the creditors of the Hermosa Beach Water Company be paid, or arrangements satisfactory to such creditors be entered into.

I recommend that the application be granted, as I believe that this water plant will be in considerable need of additions and betterments, and under present conditions the obtaining of funds for this purpose is almost impossible.

I think, however, that these bonds should bear interest at not to exceed 6 per cent, and I believe that capital stock should be issued in an amount not to exceed $35,000.00.

I submit herewith the following form of order:

ORDER.

Application having been made to the Railroad Commission of the State of California by Hermosa Beach Water Company for an order authorizing it to sell its plant and system, and by Hermosa Beach Water Corporation for an order authorizing it to execute a trust deed conveying all of its property now owned or hereafter acquired as security for the payment of $80,000.00 face value of bonds, and for an order authorizing it to issue $65,000.00 face value of said bonds and $60,000.00 of its capital stock, and a public hearing having been held, and it appearing to the Commission that said application should be granted, and that the purposes for which the proceeds of said stock and bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered by the Railroad Commission of the State of California:

1. Hermosa Beach Water Company is hereby authorized to sell to Hermosa Beach Water Corporation all of its water plant and system and all property now owned by it, in consideration of the delivery to

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it of $65,000.00 face value of bonds, or, in lieu of said bonds, $52,000.00 cash, and $35,000.00 par value of capital stock of the Hermosa Beach Water Corporation.

2. Hermosa Beach Water Corporation is hereby authorized to issue $65,000.00 face value of bonds, and $35,000.00 par value of capital stock under the following terms and conditions:

Said bonds shall bear interest at a rate not to exceed 6 per cent per annum, and shall be issued under the terms and conditions of a trust deed to be executed in substantially the form as set out in Exhibit "A" on file herein. Said bonds and said stock shall be used only for the purpose of acquiring the property of Hermosa Beach Water Corporation, and shall be sold at not less than 80 per cent of face value, and the $52,000.00 cash resulting shall be paid, together with the stock above mentioned, to the Hermosa Beach Water Company in exchange for its property, said property being described in a copy of a proposed trust deed on file herein, reference to which is hereby made. If said bonds are not sold, then they may be delivered, together with the aforesaid stock, to the Hermosa Beach Water Company in exchange for its property.

3. Hermosa Beach Water Corporation is hereby further authorized to execute a trust deed conveying all of the property now owned or hereafter acquired by it, as security for the payment of bonds, in a sum not to exceed $80,000.00, with interest at 6 per cent per annum. Said trust deed to be in substantially the form as set out in Exhibit "A" on file herein.

This order is made upon the condition that Hermosa Beach Water Company shall not be dissolved, nor shall it dispose of any of the stock or bonds, or proceeds thereof, hereinabove authorized, until all indebtedness of said Hermosa Beach Water Company shall have been discharged or such indebtedness released by agreement with the creditors.

4. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of said stock and said bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, in accordance with the Commission's General Order No. 24, stating the terms and conditions of the sale of said stock and said bonds, the moneys realized therefrom and the use and application of such moneys.

5. The authority hereby granted shall apply only to stock or bonds issued by said company on or before the 15th day of April, 1915.

6. This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, shall have been paid.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of October, 1914.

DECISION No. 1867.

CITY OF RICHMOND

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 605.

RICHMOND CLUB

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 609.

Decided October 13, 1914.

Above complaints, consolidated for hearing and decision, allege that defendant's depot in the city of Richmond is inadequate and unsuitable and that defendant contemplates constructing a new frame building not in keeping with the growth of this community, and accordingly petition the Commission to direct that a suitable stone or concrete depot be constructed. Defendant company in answer contends that it is practically impossible to float securities to raise necessary funds and that passenger traffic has fallen off to a considerable extent, and therefore petitions the Commission to discontinue directing that new depots be constructed where found necessary, but that they be permitted to construct additional facilities to present structures.

Held, That though the Commission has the power to compel the construction of new depots where found necessary it has no desire to impose unjust burdens upon the railroads, and considering that a majority of the new depots ordered constructed were, prior to such orders, already proposed or at least admitted by the railroads themselves at the hearings to be necessary, no unjust burdens have been forced upon the railroads by such orders.

Held, That the plans for a new depot as proposed by applicant will adequately and efficiently serve the present and future needs of the city of Richmond, with certain alterations in proposed new freight depot, which plans for such alterations defendant is directed to file for approval within sixty days, and to construct and complete both passenger and freight depots within six months after their approval.

D. J. Hall, for the City of Richmond.

Katherine Zimmerman, for the Richmond Club.

Geo. D. Squires, for the Southern Pacific Company.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In these two cases the city of Richmond, through its mayor, and the Richmond Club, through its president, asked for an order by the Commission directing the Southern Pacific Company to construct adequate station facilities in the city of Richmond. The cases were, therefore, combined at the hearing and are now combined in one decision.

The complaint by the city of Richmond substantially relates that for over ten years the defendant has maintained a passenger and freight depot in the city of Richmond in the vicinity of Sixteenth street and Macdonald avenue; that the passenger depot is an unsightly and cheaply constructed frame building and is unsuited for the purposes of a passenger depot for this city. It is further pointed out that the city of Richmond has a population of approximately sixteen thousand (16,000) people, and that the receipts of the defendant from its freight and passenger business done in the city of Richmond amounts to a large sum annually. The complainant states his belief that the Southern Pacific Company is about to construct a new freight and passenger depot in the city of Richmond which is unsuited to and inadequate for the needs of the rapidly growing city. The complainant desires the erection of a stone, concrete, brick or other fireproof passenger station at the site of the present depot, and avers that the city of Richmond will be greatly injured if the defendant is permitted to continue the use of the present structure or to erect a new frame building.

The Richmond Club in its complaint differs from the city of Richmond only in that it desires a separation of the freight from the passenger service and the construction of separate freight and passenger depots upon the present or any other suitable depot site in the city of Richmond.

Under the usual procedure of the Commission the defendant was given an opportunity to answer these complaints. The answers deny that the freight and passenger depot as at present maintained is an inferior structure or that it is inadequate to properly secure and provide for the reasonable necessities and conveniences of the public and the defendant's patrons. Defendant further denies that for any reason it can well afford to erect a new passenger depot, or a larger or a better passenger depot than the present one; and also denies that because of any increase in the population of the city of Richmond or the growth of its industries or for any other reason it is necessary that a passenger depot which may be constructed shall be a separate or distinct structure from the freight depot.

With reference to the allegations contained in the complaints that the defendant is about to build and construct a new, cheaply constructed

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freight and passenger depot in the city of Richmond, the defendant admits that it does contemplate the construction of a new freight and passenger depot in the future, which will be either a frame or stucco building, but denies that this proposed depot will be a cheap or inferior building or of cheap and inferior construction; and, on the contrary, avers that the proposed depot will be substantially constructed and of attractive appearance.

Defendant also denies that it is essential for the security and convenience of the public or the patrons of the road, or that it is to the best interests or in keeping with the size or growth of the city of Richmond that a stone, concrete, brick or other fireproof or semi-fireproof depot building be constructed either on the site of the present depot or at any other place or site.

The Commission was also in receipt of a letter from the general manager of the Southern Pacific Company, in which he takes up the problem of this Richmond depot in particular and the larger problem of the construction of new passenger depots at numerous points throughout the State in general. He points out that the Commission's decisions in the past have prescribed not only the type of depot that should be constructed but also the materials and style of architecture. This, he thinks, has led other communities to believe that almost any type of structure can be requested through this Commission and be obtained, with the result that his company is spending large sums of money for depots that would not be called for were it undertaken to provide what would come under the term of "adequate facilities," which the law contemplates. The general manager of this company suggests that, inasmuch as nearly all of the stations asked for are passenger stations, it might be consistent for this Commission to discourage the building of new passenger stations and in lieu thereof see what additions can be made to existing structures to provide adequate facilities.

This suggestion is made in the light of the situation existing in the country at this time, as he sees it, with traffic materially disminished and the company's passenger earnings for the past year falling off at the rate of from two hundred thousand to four hundred thousand dollars per month; and with the further fact in mind that railroad corporations as a rule, and the Southern Pacific Company in particular, have had to do their financing abroad, which at present, because of the European war, is impossible and probably will be for some time to come.

I believe that the Commission fully understands the situation. It is only natural, however, and must be expected, that depot facilities along any railroad in many places, by reason of growth of population and of business, will become inadequate, and have to be replaced by new and larger structures. In California especially this has been and will continue to be the normal course of events. Such expenditures belong

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among the inevitable and necessary operating expenses of a railroad. The Commission under the law has jurisdiction over such matters and will decide each case, after thorough investigation into the facts, upon its merits. It seems also necessary to point out that by far the largest portion of the Southern Pacific Company's expenditures for new passenger depots is incurred not under the orders of this Commission but on the company's own initiative. And even in the majority of the cases where the Commission has entered its order requiring new structures, the utilities involved have agreed at the hearings, and prior to the order by the Commission, that the facilities deemed necessary by the Commission are essential, and have expressed their willingness to incur such necessary expenditures.

This is true in this case. The defendant recognizes the need of a new and larger depot for the city of Richmond, and had made plans for one prior to the case being taken before the Commission. In the recognition of this need I agree with the applicant and the defendant. I am also strongly impressed by the need, and the wisdom, of separating the passenger depot from the freight depot, and at the hearing which was held in Richmond on August 20th, the defendant agreed with this opinion.

Prior to the hearing a statement of business transacted at Richmond was requested from and furnished by the defendant. The statement of freight business covers the twelve (12) months from June, 1913, to May, 1914, inclusive; that of passenger business, the twelve (12) months from May, 1913, to April, 1914, inclusive. The figures are as follows:

Freight business.

Number of carloads, forwarded	13,934	charges	$767,907 00	
Number of carloads, received	8,400	charges	424,683 00	
Totals	22,334			$1,192,590 00
Tons, less-carload lots, forwarded	13,550	charges	$54,908 00	
Tons, less-carload lots, received	13,419	charges	42,181 00	
Totals	26,969			97,089 00

Total freight business, $1,289,679.00.

Passenger business.

Tickets sold, local	42,467	receipts	$41,490 00	
Tickets sold, interline	657	receipts	23,621 00	
Totals	43,124			65,117 00
Total business				$1,354,796 00

The above statement of tickets sold gives the actual number of transactions at the window. If every commute ticket be counted as thirty or thirty-one passengers, and every round trip ticket be counted as two passengers, the number of passengers amounts to sixty-nine thousand six hundred and sixteen (69,616) for the year. Not counting flag

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stops, twenty-nine (29) passenger trains are scheduled to stop at Richmond each day. The average number of passengers per train stopping is seven (7).

This amount of business compares favorably with the business transacted in places where the Commission has heretofore ordered the construction of necessary depots under similar conditions.

The Commission's engineering department had an opportunity prior to the hearing to look over the plans of the new passenger depot as proposed by the Southern Pacific Company. The general front elevation shows that the structure is to be of lath and plaster or stucco construction, with a brick veneer around the lower part about four (4) feet high. There are rooms provided in the depot as follows: An open waiting room, 16 by 20 feet; a women's waiting room, 23 by 24 feet; a ticket office and lobby, 15 by 24 feet; a men's smoking room, 15 by 23 feet; a baggage room, 23 by 28 feet; two (2) telephone booths, and other necessary conveniences. I believe that these facilities are large enough to take care of the average amount of traffic that this depot will be expected to handle for a considerable time to come. Assuming an average reasonable construction, this depot will cost in the neighborhood of six thousand dollars ($6,000.00).

The plan also makes provision, without giving details, for a separate freight house and platform, which, if built of the usual standard frame construction, will cost approximately fourteen thousand dollars ($14,000.00).

I am of the opinion that the new passenger and freight facilities as proposed by the defendant, if constructed, will be adequate to take care of the reasonable present and future needs of the city of Richmond.

At the hearing the Southern Pacific Company's plans and drawings were shown and explained to the representatives of the city and of the Richmond Club, and the complainants declared their general approval and satisfaction with these plans. The only point of disagreement was with reference to the class or type of construction of the proposed freight depot, and it was stipulated that the approval of the freight depot plans by the Commission would be satisfactory to the complainants.

I find, therefore, as a fact, that the present passenger depot facilities of the defendant in the city of Richmond are inadequate for the passenger traffic handled at that point, and that defendant should erect a passenger depot on its property on the site of the present station in accordance with plans heretofore submitted to the Commission.

I find, further, that a separation of the passenger and freight facilities at Richmond seems necessary and desirable, and that the defendant should erect a freight depot on the site shown on the location plan

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submitted to the Commission. Detailed plans of the freight depot should be submitted for the approval of the Commission before commencement of construction.

I find further that sixty (60) days will be a reasonable time from the date of this order within which the defendant shall submit plans for the freight depot and secure the approval of the Commission, and that six (6) months will be a reasonable time after the approval of such plans for the construction and completion of both the passenger and freight depots.

I submit herewith the following form of order:

ORDER.

City of Richmond, a municipal corporation, and the Richmond Club, a corporation, having filed with this Commission complaints against the Southern Pacific Company, a corporation, in the procedure entitled as above; and the Southern Pacific Company having filed with this Commission its answers; and a public hearing having been held and evidence having been presented by the interested parties; and the cases having been submitted; and the Commission finding as a fact that the defendant's main line depot in the city of Richmond is inadequate for the passenger traffic at that point; and that the freight depot should be a separate structure from the passenger depot; and that the Southern Pacific Company should erect on its property on the present site of its depot in the city of Richmond a passenger depot and a freight depot; and basing its order on the findings contained herein and on the opinion preceding this order,

It is hereby ordered that the defendant shall within sixty (60) days from the service on it of this order present to the Railroad Commission for its approval plans for a freight depot to be built on the location hereinbefore described, and shall within six (6) months after the approval by this Commission of such plans build on said location a passenger depot in accordance with the plans heretofore submitted to the Commission, and a freight depot as per plans approved by the Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 13th day of October, 1914.

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DECISION No. 1868.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

Application No. 808.

Decided October 13, 1914.

REPORT OF THE COMMISSION.

Supplemental application having been made by the San Diego and Arizona Railway Company, a corporation, on July 14, 1914, for the issuance of an order by this Commission approving certain expenditures as set forth in said supplemental application, viz., certain steel and track material, involving a total expenditure of two hundred and nineteen thousand, nine hundred and fifty-six dollars ($219,956.00), as shown in the schedule attached to the application; and it appearing to the Commission that the purchase of this material is essential and necessary, this expenditure is hereby approved.

Dated at San Francisco, California, this 13th day of October, 1914.

DECISION No. 1869.

S. RANEY ET AL.

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION.

Case No. 576.

Decided October 13, 1914.

Complainants allege the refusal of defendant company to extend its lines so as to serve them with electric energy and petition the Commission to compel such extensions and to fix reasonable rates for such service.

Held, That as defendant company has extended its lines throughout surrounding territory it should likewise serve complainants, irrespective of whether such additional consumers will provide a return equal to its present patrons, provided that the system as a whole is operated at a profit. Defendant directed to make necessary extensions, provided, proposed consumers desiring energy for power purposes guarantee a minimum annual consumption under the present schedule of rates of not less than $4,000.00, and of proposed domestic consumers of not less than $24.00 per year each, and of residents of the town of Hardwick a guarantee of not less than twenty consumers using an annual consumption amounting to not less than $1,000.00.

S. Raney, for Complainants.

W. A. Sutherland and *Short & Sutherland*, for Defendant.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This complaint was filed for the purpose of compelling the defendant to serve the complainants with electricity for lighting and domestic and irrigation purposes. The complainants allege, in effect, that they are ranchers residing between Lemoore and Hardwick, in Kings County, California, and are in need of electric power service to carry on their farming; that they submitted a petition to defendant requesting service, which was refused. The complainants request that the Commission compel the defendant to extend its lines to serve the complainants and that the rates to be charged be fixed on an equitable basis.

The defendant thereafter filed its answer denying most of the material allegations of the complaint. Defendant's answer states that the complainants had not petitioned the defendant for the necessary extension of defendant's lines and denies that defendant had at any time refused to make the extension. The answer further states that upon receiving the complaint, defendant caused its agents to investigate the matter and interview the complainants to determine the nature and extent of the service desired and that from the result of this investigation the maximum estimated return to be obtained from this extension will be $4,010.00, based on existing rates, but that the complainants refused to enter into contracts for the delivery of power under its established schedules. Further, that the service of the complainants would require the construction of a 10,000-volt substation at Lemoore at a cost of approximately $4,000.00 and fifteen miles of primary distribution lines at a cost of $12,000.00, for which a maximum return under existing rates of not to exceed $4,150.00 would be obtained.

The hearing in this case was held in the town of Hanford on June 1, 1914. It appeared at the hearing that nineteen of the complainants signified their willingness to contract with the company for power aggregating $2,070.00 per year, subject to the condition that the rates be fixed by the Commission. The Floribel Farming and Cattle Company, which will probably use in excess of $1,500.00 worth of energy per year, was not represented at the hearing and no reply was received by the Commission to a written inquiry addressed to this alleged prospective consumer.

The territory to be served is located in sections 5, 6, 7, 8, 18 and 19, township 18 south, range 21 east, and sections 11, 12, 13, 23, 24, 25, 26 and 27, township 18 south, range 20 east, Mt. Diablo meridian and base line.

With the exception of the Floribel Farming and Cattle Company's property and the ranches of C. Railsback and L. E. Hall, practically all of the land is at present irrigated from either the Last Chance or

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Lemoore Canal and Irrigation Company's systems. The crops raised are alfalfa, fruit and grapes. The cost of water from the ditches amounts to a purchase of stock at $6.00 per acre and an annual charge for water of 75 cents per acre. Testimony was given, on behalf of defendant, to the effect that there had been little success in obtaining good wells, but I am reluctant to believe that sufficient well water cannot be obtained in this district if proper development methods are observed.

The construction necessary to give the requested service consists of eleven and three fourths miles of main-line extension along public roads at an estimated cost of $9,452.10 and branch extensions to pumping plants and houses of $3,939.81, making a total local investment, not including transformers, of $13,391.91. In addition to this cost the defendant's assistant general manager stated that a substation would be required at Lemoore at a cost of $6,000.00.

From testimony of the defendant's representative it appears that the company had heretofore authorized and approved the construction of a 10,000-volt tie line from Caruthers through Riverdale to Hardwick to better their service conditions and to serve the towns of Riverdale and Hardwick and intervening territory. The estimated first year's revenue from this extension is $3,500.00 and the cost is estimated at $15,000.00. I am led to assume that actual construction was commenced and that the work was subsequently discontinued. While the reason given by defendant for the cessation of work on the Caruthers extension is lack of funds, it is not entirely clear to my mind just how this can be expected to be viewed by the Commission as a valid excuse for neglect on the part of defendant to properly and adequately discharge its full duty as a public utility. Particularly would this be true if the earnings of a company were shown to be adequate to provide for such extensions to facilities and improvements to service as may be reasonably necessary.

This case brings up several peculiar conditions. The territory to be served is in large portion irrigated from the present canal systems at what seems to be a reasonable rate. The power requirements appear to be limited to about 200 horsepower in motors and twenty or more lighting consumers requiring extension of approximately eleven and three fourths miles of line, in addition to some twenty probable consumers in the town of Hardwick and immediate vicinity requiring distribution lines in that community, which is now totally without electric service. Under the existing rates of the company it appears that certain of the complainants refuse to contract for service, but request that the Commission put the rates on an equitable basis, and it does not appear entirely clear as to whether or not certain other complainants are willing to take electric energy from the defendant corporation at the existing rates pending a final adjustment thereof by the Commission. Con-

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sidering the fact that the Commission has made no investigation involving the present rates of defendant, it would of course be impossible, upon the evidence introduced thus far, to order the extension of defendant's lines and facilities to serve complainants upon any other than the rates and regulations legally in effect. On the other hand, the evidence shows that defendant has constructed its lines on all sides of the district involved in this case, including the town of Hardwick, in such a manner as to preclude the possibility of profitable operation by any other utility which might be willing otherwise to enter the field. Under the circumstances it is clearly the duty of defendant to serve the entire territory dependent upon it for such service, irrespective of the fact that certain districts may be less profitable than others. Obviously the rates for electric energy are not based on the cost of service to each individual consumer, but are based rather upon the average cost of serving all consumers of a given class, and while it must be admitted that the business of defendant when considered as a whole cannot be conducted at a loss, it does not necessarily follow that investments to serve all individual consumers or groups of consumers will show the same percentage of profit. Rates based upon any other theory would result in special rates to each consumer, which is entirely impracticable from an operating point of view and would necessitate the constant revision of rates to avoid serious discriminations.

Considering the problem involved from all points of view, I find that under the circumstances of this case defendant should make the necessary extensions to its lines and provide the necessary facilities to serve each of the complainants, provided that the complainants will agree to receive and pay for the service at the rates and under the terms and conditions which are now legally in effect until such time as the Commission after investigation shall establish rates for such service. I therefore recommend that defendant be directed to make all necessary extensions to its lines and wires, furnish the necessary facilities and supply electric service at its own expense as follows:

(*a*) To each of complainants requiring service primarily for power purposes, provided that not less than fifteen (15) of said complainants or other persons under like circumstances will agree to receive and pay for such service; and provided, further, that the total guaranteed annual revenue from this class of consumers shall equal or exceed the sum of $4,000.00.

(*b*) To each of complainants requiring service primarily for domestic or lighting purposes, provided that defendant shall not be required to supply service to any of the complainants where the annual guaranteed revenue is less than $24.00; and provided, further, that defendant may call to the attention of the Commission any particular instance where

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the probable revenue to be derived will not warrant the investment, considering all the circumstances, including the cost of service to all consumers of this class.

(*c*) To the inhabitants of the town of Hardwick and immediate vicinity, provided that not less than twenty (20) prospective consumers of electric energy for lighting and power purposes will agree to take service from defendant; and provided, further, that the total annual guaranteed revenue shall equal or exceed the sum of $1,000.00.

Inasmuch as there is not sufficient information at this time upon which to determine the reasonableness of the rates charged by defendant for electric energy, I would recommend that the Commission's present order in this case be confined to the question of whether or not service should be supplied by defendant at existing rates. I would further recommend that the question of the reasonableness of the rates charged by defendant be considered in connection with other cases now pending before the Commission and that the final decision in this case in the matter of rates be reserved until the Commission has completed its investigation and has established rates for the character of the service involved.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled case and the same having been submitted and being now ready for decision, and the Commission finding as a fact that San Joaquin Light and Power Corporation should extend its lines and provide the necessary facilities to serve the complainants and certain residents of the town of Hardwick with electric energy for domestic and power purposes, and basing its order upon the foregoing findings of fact and on the additional findings which are contained in the opinion which precedes this order,

It is hereby ordered that San Joaquin Light and Power Corporation be and the same is hereby directed to extend its lines and wires, provide the necessary facilities and supply service at the present rates and under the existing rules and regulations applicable thereto and on file with the Commission, as follows:

1. To each of complainants requiring service primarily for power purposes, provided that not less than fifteen (15) of said complainants or other persons under like circumstances shall agree to receive and pay for such service; and provided, further, that the guaranteed annual revenue from this class of consumers shall equal or exceed the sum of four thousand ($4,000.00) dollars.

2. To each of complainants requiring service from rural lines primarily for domestic or lighting purposes, provided that defendant shall

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not be required to supply service hereunder in any instance where the guaranteed annual revenue is less than twenty-four ($24.00) dollars; and provided, further, that defendant may bring to the attention of the Commission for further investigation and order any particular instance where the probable revenue to be derived from service under this subdivision will not warrant the investment necessary to serve, considering all the circumstances, including the cost of service to all consumers of this class.

3. To the inhabitants of the town of Hardwick, and immediate vicinity, provided that defendant shall not be required to supply service hereunder unless at least twenty persons will agree to take and pay for such service, and that the guaranteed annual revenue shall equal or exceed the sum of one thousand ($1,000.00) dollars.

And it is further ordered that if any apparently unreasonable delays be incurred in the execution of this order, complainants or any of them may make further representations to this Commission.

It is to be distinctly understood that service hereunder shall be supplied by defendant at the present rates and under the existing rules and regulations applicable thereto on file with the Commission or duly authorized revisions thereof, except as to such modifications as may be specifically authorized hereby, pending the investigation and findings to be made by the Commission as to rates and conditions of service applicable to the territory involved in this case, which investigation and findings will be made in connection with Case No. 655, now regularly before the Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of October, 1914.

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Desicions Nos. 1870, 1871, 1872, 1873, grade crossings; not printed. See end of volume.

DECISION No. 1874.

SAN JOAQUIN LIGHT AND POWER CORPORATION

vs.

TULARE COUNTY POWER COMPANY.

Case No. 653.

Decided October 14, 1914.

REPORT OF THE COMMISSION.

ORDER AUTHORIZING WITHDRAWAL OF CROSS-COMPLAINT.

Defendant in the above entitled action having filed with the Railroad Commission its written request that it be authorized to withdraw its cross-complaint heretofore filed in the above entitled action,

It is hereby ordered that said defendant be and the same is hereby authorized to withdraw said cross-complaint.

Dated at San Francisco, California, this 14th day of October, 1914.

Decision No. 1875, grade crossing; not printed. See end of volume.

DECISION No. 1876.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

Application No. 808.

Decided October 15, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER NO. 4.

Supplemental application having been made by the San Diego and Arizona Railway Company, a corporation, on September 5, 1914, for the issuance of an order by this Commission approving certain expenditures for materials and equipment as per schedule attached to said supplemental application and amounting to the total sum of two hundred and three thousand and sixty-six dollars ($203,066.00); and it appearing to the Commission that the purchase of these materials and equipment is essential and necessary for the construction and operation of the road, this expenditure is hereby approved.

Dated at San Francisco, California, this 15th day of October, 1914.

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DECISION No. 1877.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

Application No. 808.

Decided October 15, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER No. 5.

Application having been made by the San Diego and Arizona Railway Company, a corporation, for the issuance of an order by this Commission approving a construction contract placed during the month of September, 1914, for one passenger coach and one all steel combination car, as shown in the schedule attached to the application, the cost thereof amounting to a total of twenty-six thousand seven hundred and ten dollars ($26,710.00); and it appearing to the Commission that the purchase of these cars is essential and necessary for the operation of the road, this expenditure is hereby approved.

Dated at San Francisco, California, this 15th day of October, 1914.

DECISION No. 1878.

IN THE MATTER OF THE APPLICATION OF CONTRA COSTA GAS COMPANY FOR AUTHORITY TO ISSUE STOCKS AND BONDS, AND OF S. WALDO COLEMAN TO TRANSFER FRANCHISES TO CONTRA COSTA GAS COMPANY.

Application No. 1318.

Decided October 15, 1914.

S. Waldo Coleman, authorized to transfer to the Contra Costa Gas Company five certain franchises permitting the construction and operation of a gas distributing system in Contra Costa County and the towns of Concord, Pittsburg, Martinez and Antioch, and the latter company authorized to exercise rights thereunder and to issue, for the purposes of such construction, 611½ shares of its capital stock of the par value of $100.00 per share and $109,000.00 face value of its 6 per cent bonds, stocks to be sold at not less than 80 and bonds at not less than 90.

A. A. Van C. Torchiana, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by Contra Costa Gas Company for authority to issue 611½ shares of its capital stock of the par value of $100.00 per

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share, and $109,000.00 of its forty-year 6 per cent first mortgage bonds; and of S. Waldo Coleman to transfer certain franchises to Contra Costa Gas Company.

Mr. S. Waldo Coleman is the owner of five franchises for the operation of a system of gas plants and the distribution and sale of gas in Contra Costa County and in the following towns of said county: Concord, Martinez, Pittsburg, and Antioch. Mr. Coleman now proposes to transfer these franchises to Contra Costa Gas Company.

Contra Costa Gas Company was incorporated on April 24, 1914, for the purpose of operating a system of gas plants in Contra Costa County. It has an authorized issue of 2,500 shares of capital stock of the par value of $100.00 per share, or a total par value of $250,000.00. It has an authorized bonded indebtedness of $500,000.00 to be secured by a mortgage and deed of trust to the Mercantile Trust Company of San Francisco, under which provision is made for the issue of bonds to run for forty years and to carry interest at 6 per cent per annum.

Mr. Coleman will be the president and general manager of Contra Costa Gas Company. He proposes to build a central gas plant at Pittsburg, Contra Costa County, with transmission lines to Antioch, Concord, and Martinez. He estimated the total cost of the system at $145,420.00. This estimate was submitted in detail as Exhibit "B" of the application herein, a summary of which follows:

Gas plant at Pittsburg	$30,370 00
Transmission line from Pittsburg to Antioch	4,800 00
Transmission line from Pittsburg to Concord	17,280 00
Transmission line from Concord to Martinez	8,567 00
Pressure station at Martinez	11,050 00
Pressure station at Concord	1,400 00
Pressure station at Antioch	1,400 00
Distribution system at Concord	8,897 00
Distribution system at Antioch	9,990 00
Distribution system at Martinez	15,368 00
Distribution system at Pittsburg	16,038 00
Tools and equipment	1,290 00
Engineering contingencies, etc., approximately 15 per cent of above	18,970 00
Total	$145,420 00
To this amount should be added the cost of obtaining the franchises as originally purchased by Mr. Coleman	1,600 00
Grand total	$147,020 00

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Contra Costa Gas Company now makes application to this Commission for authority to issue its stock and bonds as follows:

20 shares of stock to S. Waldo Coleman, on the basis of $80.00 per share, to purchase the five franchises heretofore referred to for the cost thereof to Mr. Coleman	$1,600 00
591½ shares of stock to be sold at $80.00 per share	47,320 00
611½ shares. Total stock	$48,920 00
$109,000.00 of bonds to be sold at 90 per cent of par	98,100 00
Total to be realized from sale of stock and bonds	$147,020 00

Applicant's bonds will be issued under a trust deed providing for a sinking fund, beginning June 30, 1919, of 1 per cent of the bonds outstanding. The interest of the bonds in the sinking fund are to be added as part of the sinking fund. The bonds are callable at 102½ per cent of par.

Mr. Coleman testified that he had made no permanent arrangements for the sale of securities, but believed there would be a ready market for them.

The estimates submitted by the applicant figure the population of the towns to be served as follows:

Martinez	3,000
Pittsburg	4,000
Concord	1,500
Antioch	2,000
Total	10,400

No gas plants are now operated in any of these localities. Mr. Coleman estimated that he could obtain from these towns 1,462 consumers on the following basis:

Concord	250
Antioch	285
Martinez	427
Pittsburg	500

It is his purpose to solicit the sale of gas for cooking and industrial purposes. Mr. Coleman, on behalf of the applicant, figures that the average consumption would be approximately 1,800 cubic feet of gas per month per consumer, for which he expected to offer a rate which would average $1.40 per thousand. The rate schedule, with which it is proposed to inaugurate service, has been tentatively drafted as follows:

The first 2,000 cubic feet	$1 50 per thousand
The next 3,000 cubic feet	1 25 per thousand
The next 15,000 cubic feet	1 00 per thousand
The next 20,000 cubic feet	80 per thousand
Over 40,000 cubic feet	70 per thousand

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The applicant estimated annual earnings under this schedule as follows:

Gross earnings		$36,842 40
Production cost	$9,770 00	
Distribution cost	8,820 00	
Administration taxes, etc.	4,200 00	
Total expense		22,790 00
Net earnings		$14,052 40
Interest on bonds		6,540 00
Balance		$7,512 40
Depreciation	$1,500 00	
Bond discount	272 50	
Total		1,772 50
Surplus		$5,739 90

The territory in which the applicant proposes to operate is a rapidly growing section and the center of large industrial enterprises. It is desirable that a system of gas plants be established, and I have no doubt that the growth of population will very quickly bring augmented earnings, and applicant's financial plan is one that I can readily commend. Mr. Coleman has had long experience in the gas business and will himself personally undertake the management of Contra Costa Gas Company.

I recommend that the application be granted and submit the following form of order:

ORDER.

Contra Costa Gas Company having applied to this Commission for authority to issue 611½ shares of its capital stock of the par value of $100.00 per share, and $109,000.00 of its forty-year 6 per cent first mortgage bonds under its deed of trust to the Mercantile Trust Company of San Francisco, dated October 1, 1914, and application having been made by S. Waldo Coleman for authority to transfer five franchises, as recited in the preceding opinion, to Contra Costa Gas Company, and a hearing having been held and it appearing that the purposes for which Contra Costa Gas Company proposes to issue said stock and said bonds are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Contra Costa Gas Company be given authority and it is hereby given authority to issue 611½ shares of its capital stock of the par value of $100.00 per share.

It is further ordered that Contra Costa Gas Company be given authority and it is hereby given authority to issue $109,000.00 of its first mortgage 6 per cent forty year bonds under its trust deed to

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Mercantile Trust Company of San Francisco, dated October 1, 1914, a copy of which has been filed in connection with the application herein and marked Exhibit "C," to which reference is hereby made.

It is further ordered that S. Waldo Coleman be given authority and he is hereby given authority to transfer to Contra Costa Gas Company those certain franchises conferred by the following ordinances:

1. Ordinance No. 39, dated January 12, 1914, of the town of Concord, California.
2. Ordinance No. 139, dated April 6, 1914, of the town of Martinez, California.
3. Ordinance No. 29-A, dated April 22, 1914, of the city of Pittsburg, California.
4. Ordinance No. 32-A, dated May 18, 1914, of the town of Antioch, California.
5. Ordinance No. 130, dated September 2, 1913, of the county of Contra Costa, California.

Copies of all of said ordinances being on file with this Commission in connection with applications No. 905 and No. 1037, to which reference is hereby made.

The authority herein given to Contra Costa Gas Company to issue 611½ shares of its capital stock and $109,000.00 of bonds is given upon the following conditions, and not otherwise:

1. The stock herein authorized to be issued shall be issued and sold as follows:

   (*a*) 20 shares of stock to be issued to Mr. S. Waldo Coleman upon the transfer by him of the aforesaid mentioned five franchises to Contra Costa Gas Company.

   (*b*) The remaining 591½ shares of stock shall be sold so as to net the applicant herein not less than $80.00 per share.

   (*c*) The bonds herein authorized to be issued shall be sold so as to net the applicant herein not less than 90 per cent of their face value, plus accrued interest.

2. The proceeds derived from the sale of said stocks and bonds shall be used for the purpose of constructing gas plants, transmission lines and distributing systems to serve the towns of Pittsburg, Antioch, Concord, and Martinez, in Contra Costa County, in accordance with the details as filed by applicant in connection with the application herein and marked Exhibit "B," a summary of which appears in the preceding opinion.

3. Nothing in the authority herein granted shall be construed as obligating this Commission, or other regulating body, to recognize such taxes as the applicant herein may not be under the law compelled to

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pay, but which it may voluntarily pay for others, as part of the expenses of this corporation, to be considered in establishing just and reasonable rates.

4. The authority herein given shall apply to such stocks and such bonds as shall have been issued on or before October 1, 1915.

5. Contra Costa Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein given is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of October, 1914.

DECISION No. 1879.

IN THE MATTER OF THE APPLICATION OF THE HUGHSON TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF FIVE THOUSAND SHARES OF COMMON STOCK OF THE PAR VALUE OF FIVE THOUSAND DOLLARS.

Application No. 1316.

Decided October 15, 1914.

Applicant, Hughson Telephone Company, authorized to issue 3,675 shares of its capital stock of the par value of $1.00 per share, in lieu of a like number of shares heretofore illegally issued, and 550 shares covering improvements and betterments already made and 775 shares to be sold at not less than par, to cover proposed extensions and betterments.

F. C. Nickle, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by the Hughson Telephone Company for authority to issue 5,000 shares of its common stock at the par value of $1.00 per share, in lieu of an equivalent number of shares heretofore

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unlawfully issued, amounting to $3,675.00, for extensions and betterments to plant already made to the extent of $550.00 and to provide funds for further extensions to the extent of $775.00.

The applicant owns and operates a telephone system as a public utility in the unincorporated town of Hughson and in adjacent territory in Stanislaus County. It is incorporated under the laws of this State, with a capitalization of $5,000.00, divided into 5,000 shares of the par value of $1.00 per share. Since its incorporation on July 17, 1912, it has issued and sold stock above referred to amounting to $3,675.00, as follows:

Certificate number	Date issued	Issued to	Number of shares	Amount
1	Aug. 9, 1912	Ella S. Nickle	500	$500 00
2	Aug. 9, 1912	Ferril C. Nickle	499	499 00
3	Aug. 9, 1912	Della C. Lutz	1	1 00
4	Sept. 2, 1912	Rosa Shaw	5	5 00
5	Oct. 1, 1912	James E. Brown	300	300 00
6	Oct. 1, 1912	Charles D. Fowler	50	50 00
7	Oct. 1, 1912	Charles D. Fowler	50	50 00
8	Oct. 1, 1914	Charles D. Fowler	50	50 00
9	Oct. 1, 1912	Charles D. Fowler	50	50 00
10	Oct. 1, 1912	Ferril C. Nickle	100	100 00
11	Nov. 26, 1912	Ella S. Nickle	500	500 00
12	Nov. 26, 1912	Ferril C. Nickle	500	500 00
13	Apr. 1, 1913	Charles D. Fowler	100	100 00
14	June 23, 1913	Charles D. Fowler	200	200 00
15	Jan. 1, 1914	Ella S. Nickle	100	100 00
16	Jan. 1, 1914	Ferril C. Nickle	100	100 00
17	Jan. 1, 1914	Beatrice F. Donaldson	10	10 00
18	Jan. 1, 1914	Lilly P. Shelly	10	10 00
19	Feb. 11, 1914	Charles D. Fowler	100	100 00
20	Feb. 28, 1914	Ella F. Nickle	200	200 00
21	Feb. 28, 1914	Ferril C. Nickle	200	200 00
22	Mar. 31, 1914	Harry G. Nickle	50	50 00
			3,675	$3,675 00

The applicant testified that the entire proceeds from the sales of this stock have been expended in plant extensions and betterments, and that in addition other expenditures for extensions amounting to $550.00 have been made, for which permission is now desired to issue stock in this amount, $550.00, to its manager, F. C. Nickle. Permission is also desired to issue and sell 775 shares for the full par value of $1.00 per share for purposes of making further extensions and for installing additional telephones as necessity demands from time to time.

The applicant claims an investment of $4,225.00, and although the property has not been inspected by the Commission, evidence was presented sufficient to justify the acceptance of this investment figure for the purposes of this proceeding. The applicant's system serves a prosperous section of country and it is apparent that additional funds will be required to meet further demands for service. The 3,675 shares

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heretofore issued have been issued subsequent to March 23, 1912, without the prior authorization of this Commission for which the Public Utilities Act provides, but it appears in the testimony that the applicant was in ignorance of this requirement of the act and that there was no intention of violating the law. I am of the opinion that the applicant should be directed to call in and cancel the 3,675 shares which are absolutely void, and authorized to issue new shares in the same amount in lieu thereof; that it should also be authorized to issue 550 additional shares to cover the amount of additional investment in plant which has already been made, and that the public necessity and convenience will be subserved by granting permission to issue and sell 775 additional shares for purposes of making further extensions and for installing additional telephones.

The following order is recommended:

ORDER.

Application having been made by the Hughson Telephone Company for an order authorizing the issue of 5,000 shares of its common stock of the par value of $5,000.00, 3,675 shares of which are sought to be issued in lieu of a like number of shares heretofore unlawfully issued in ignorance of the provisions of the Public Utilities Act, and 550 shares of which are sought to be issued for the full par value thereof to cover expenditures heretofore made for additions and betterments to the applicant's telephone system and the full amount of the proceeds received from the sales of the said 3,675 shares heretofore issued, and the full amount of the proceeds from the sale of the said 550 shares which are sought to be issued having already been used for purposes of making additions and betterments to the applicant's telephone plant; and the remainder of 775 shares which are sought to be issued and sold are for purposes of making further extensions to the applicant's telephone system and for installing additional telephones; and a public hearing having been held, and it appearing that the purposes for which the money received from the sales of the said 3,675 shares heretofore issued and from the sale of the said 550 shares which are sought to be issued to cover expenditures hereinabove referred to were not in whole or in part reasonably chargeable to operating expenses or to income;

And it further appearing that the purposes for which the Hughson Telephone Company desires to issue the said additional 775 shares of its stock are not in whole or in part reasonably chargeable to operating expenses or to income;

And it further appearing that the applicant received not less than 100 per cent of the par value thereof for the said 3,675 shares heretofore

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issued and not less than 100 per cent of the par value thereof for the said 550 shares sought to be issued;

It is hereby ordered that the Hughson Telephone Company be and it hereby is granted authority to issue 3,675 shares of its capital stock upon the following conditions, and not otherwise, to wit:

(1) Said stock herein authorized shall be issued to the following persons in substitution for an equal number of shares shown to have been illegally issued, as follows:

Date Issued	Issued to	Number of shares	Amount
Aug. 9, 1912	Ella S. Nickle	500	$500 00
Aug. 9, 1912	Ferril C. Nickle	499	499 00
Aug. 9, 1912	Della C. Lutz	1	1 00
Sept. 2, 1912	Rosa Shaw	5	5 00
Oct. 1, 1912	James E. Brown	300	300 00
Oct. 1, 1912	Charles D. Fowler	50	50 00
Oct. 1, 1912	Charles D. Fowler	50	50 00
Oct. 1, 1912	Charles D. Fowler	50	50 00
Oct. 1, 1912	Charles D. Fowler	50	50 00
Oct. 1, 1912	Ferril C. Nickle	100	100 00
Nov. 26, 1912	Ella S. Nickle	500	500 00
Nov. 26, 1912	Ferril C. Nickle	500	500 00
Apr. 1, 1913	Charles D. Fowler	100	100 00
June 23, 1913	Charles D. Fowler	200	200 00
Jan. 1, 1914	Ella F. Nickle	100	100 00
Jan. 1, 1914	Ferril C. Nickle	100	100 00
Jan. 1, 1914	Beatrice F Donaldson	10	10 00
Jan. 1, 1914	Lilly P. Shelly	10	10 00
Feb. 11, 1914	Charles D. Fowler	100	100 00
Feb. 28, 1914	Ella F. Nickle	200	200 00
Feb. 28, 1914	Ferril C. Nickle	200	200 00
Mar. 31, 1914	Harry G. Nickle	50	50 00
		3,675	$3,675 00

(2) Before said stock shall be issued, the certificates of stock in lieu of which said stock is hereby authorized to be issued, shall be called in by the applicant and cancelled.

And it is further ordered that the Hughson Telephone Company be and it hereby is granted authority to issue 550 additional shares of its capital stock at the par value of $1.00 per share to F. C. Nickle to cover expenditures heretofore made for additions and betterments to the applicant's telephone system, as hereinabove specifically referred to.

And it is hereby further ordered that the Hughson Telephone Company be and it hereby is granted authority to issue 775 additional shares of its capital stock at the par value of $1.00 per share upon the following conditions, and not otherwise, to wit:

(1) The stock herein authorized to be issued shall be issued so as to net the Hughson Telephone Company not less than the par value thereof.

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(2) The proceeds of the stock herein authorized to be issued shall be used for purposes of making extensions to the applicant's telephone system and for installing additional telephones as set out in the opinion accompanying this order.

The Hughson Telephone Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds derived from the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month shall make a verified report to the Commission showing the sale or disposition of the stock herein authorized to be issued, the terms and conditions of such sale and the disposition of the proceeds derived therefrom, all in accordance with the Commission's General Order No. 24, which, so far as applicable, is made a part of this order.

This order shall apply only to stock issued and sold on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of October, 1914.

Decisions Nos. 1880, 1881, grade crossings; not printed. See end of volume.

DECISION No. 1882.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO, CALIFORNIA, FOR PERMISSION TO CONSTRUCT THREE HIGHWAY CROSSINGS AT GRADE OVER THE TRACK OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AT FONTANA TOWNSITE, SAN BERNARDINO COUNTY, CALIFORNIA.

Application No. 1202.

Decided October 16, 1914.

Applicant, county of San Bernardino, authorized to construct at grade Magnolia and Mango avenues across the tracks of The Atchison, Topeka and Santa Fe Railway at Fontana townsite, provided that the Mango avenue crossing be protected by an automatic flagman. Application for crossing at Tamarind avenue, denied.

Raymond W. Hodge, for Applicant.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was filed with the Commission on June 24, 1914, and after some attempt to adjust the matter informally a public hear-

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ing was held on October 14, 1914, at Rialto, at which all interested parties were represented.

The three crossings applied for in this application are crossings of Magnolia avenue, Mango avenue, and Tamarind avenue, which are laid out in a north and south direction, across the main line track, between San Bernardino and Pasadena, of The Atchison, Topeka and Santa Fe Railway Company, the track running in a general east and west direction.

Fontana townsite, and a large acreage surrounding it, are part of a real estate development which has been under way for several years. Excluding the townsite, the tract is laid out in forty-acre blocks with the intention of having north and south roads about a quarter of a mile apart. Magnolia avenue runs from the north to the south extremities of the tract and through the center of the Fontana townsite. On this street is located a new school building, and it is proposed, and plans are now under way, to move the station facilities of the Santa Fe, now at Rosena, one quarter of a mile west, to the reservation made in the townsite for station facilities on Magnolia avenue. This removal of the station facilities from Rosena to Fontana, together with the establistment of the school building on this street, makes it essential that this street should be opened, and there will be considerable use for it as soon as it is opened, although it will be some years before it will be a very highly traveled street. The nearest street to the west now open is Juniper avenue, one quarter of a mile away, which is the street on which the present station facilities at Rosena are located.

To the east of Magnolia one fourth of a mile Mango avenue has been projected across the track, and this crossing is the second of the three applied for by the county. Although the traffic which would at present use Mango avenue is small there is a certain amount of travel which could use this street more conveniently than any other if the crossing was installed, and on the lot at the northwest corner of the intersection of the Santa Fe tracks with this projected street it is planned to build a packing house within the next six months which will make this street still more necessary to serve the convenience of those who have already purchased property in this tract.

East of Mango avenue about a quarter of a mile, Palmetto avenue is now open, and to the east of Palmetto avenue, a quarter of a mile further, Tamarind avenue is projected across the track, and Tamarind avenue is the third street applied for in this application. With Palmetto avenue open to the west and Alder avenue, which is now open, a quarter of a mile to the east, I am of the opinion that at the present time public convenience and necessity do not require the opening of Tamarind avenue; this for the reason that the territory surrounding it is not densely settled enough to work any considerable hardship on those

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who wish to cross the track by requiring them to drive either east or west to reach the north and south roads which are nowhere more than a quarter of a mile distant from the track.

Since in my opinion Magnolia and Mango avenues should be opened, it is necessary to see what protection, if any, should be provided at these two crossings.

There are some young trees on one side of Magnolia avenue, south of the track, which may at some future time obstruct the view of drivers of vehicles approaching this crossing from the south, but at the present time I do not believe that the obstruction is of such a nature as to require crossing protection other than the usual crossing sign.

At Mango avenue there is a windbreak of eucalyptus trees on the south of the track extending along the right of way of the Santa Fe on both sides of the highway. To drivers of vehicles coming from the south it forms a bad obstruction to the view, and owing to the winds in this vicinity and the impossibility of requiring permanently the removal of these windbreaks, these trees will probably always remain. When the proposed packing house is built it will form an obstruction of the view toward the west to drivers of vehicles coming south on Mango, and three corners at the proposed crossing will have obstructed views. With the building of the packing plant, a spur track to serve it will be built, and this spur track will probably cross Mango avenue and afford a further chance for obstructions, and I believe this crossing should be protected by an automatic crossing watchman. This was also the opinion of the representatives of both the applicant and The Atchison, Topeka and Santa Fe Railway Company, and at the hearing they agreed as to what share of the expense of this proposed automatic flagman should be borne by each party. This division of expense I believe to be just and fair and will be recommended in the order.

I recommend the following form of order:

ORDER.

Supervisors of San Bernardino County, California, having applied to the Commission for permission to open Magnolia, Mango, and Tamarind avenues across the track of The Atchison, Topeka and Santa Fe Railway Company, at Fontana townsite, and a hearing having been held, at which the facts outlined above were adduced, and it appearing that Magnolia avenue should be opened and Mango avenue, under certain conditions, should also be opened, but that public convenience and necessity does not require the opening, at this time, of Tamarind avenue,

It is hereby ordered that the supervisors of San Bernardino County be and hereby are granted permission to construct Magnolia avenue and Mango avenue at grade across the track of The Atchison, Topeka

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and Santa Fe Railway Company, at the place shown on the map and profile attached to the application, subject to the following conditions, and not otherwise:

(1) The entire expense of constructing the crossings, and all expenses incidental thereto, with the exception of the installation of an automatic flagman of a type approved by the Commission and to be hereinafter mentioned, shall be borne by the applicant.

(2) The expense of maintaining the crossings on each side of the track and up to two (2) feet thereof shall be borne by applicant.

(3) The expense of maintaining the crossings over the track and to a distance of two (2) feet on each side thereof shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

(4) For the protection of the Mango avenue crossing The Atchison, Topeka and Santa Fe Railway Company shall cause to be installed, at the time the crossing is opened, a first class automatic flagman of a type approved by the Commission, and the expense of this automatic flagman protection shall be borne equally by the applicant and The Atchison, Topeka and Santa Fe Railway Company.

(5) The cost of maintaining the automatic flagman protection thereafter shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

(6) The crossings shall be constructed of a width not less than twenty-four (24) feet, with grades of approach not exceeding six (6) per cent, and shall be ballasted with first class stone or gravel ballast to a depth of not less than six (6) inches, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(7) Six months from the date of this order the applicant shall notify the Commission whether or not the crossing of Mango avenue, permission for which is herein granted, has been constructed.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

It is hereby further ordered that that part of this application which asks permission to construct Tamarind avenue, at grade, over the track of The Atchison, Topeka and Santa Fe Railway Company be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 16th day of October, 1914.

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Decisions Nos. 1883, 1884, grade crossings; not printed. See end of volume.

DECISION No. 1885.

IN THE MATTER OF THE CHARGES FOR NATURAL GAS DELIVERED AT THE LIMITS OF THE CITY OF LONG BEACH FOR CONSUMPTION THEREIN.

Case No. 549.

Decided October 19, 1914.

On request of the city council of Long Beach, the Commission instituted upon its own motion an investigation into the rates charged for natural gas delivered in wholesale quantities at the city limits of said city for distribution therein, and after thorough investigation a rate of 24½ cents per thousand cubic feet on a pressure basis of four ounces is fixed as a fair and reasonable rate for this class of service.

H. B. Berchby, for Long Beach Consolidated Gas Company.

A. E. Peat, William G. Kerckhoff, John D. Hackstaff and *F. J. Schafter,* for Southern California Gas Company.

George F. Kapp, for City of Long Beach.

REPORT OF THE COMMISSION.

THELEN and GORDON, *Commissioners.*

This case, involving the rate for natural gas delivered at the city limits of Long Beach, was initiated by the Commission on its own motion at the request of the city council of the city of Long Beach. The question involved is the proper price to be paid for natural gas delivered at wholesale at the city limits of Long Beach.

It appears from the evidence that natural gas, either alone or as a portion of a mixture of artificial and natural gas, is supplied to the Long Beach Consolidated Gas Company for distribution and sale within the city of Long Beach and elsewhere by the Southern California Gas Company under the terms of a certain contract dated March 22, 1912, the main provisions of which, in so far as the issues of this case are involved, are substantially as follows:

1. That the Southern California Gas Company shall sell and the Long Beach Consolidated Gas Company shall purchase all the gas which the Long Beach Company shall use or distribute, for a period of ten years, in the city of Long Beach, Wilmington and San Pedro, and certain other beach cities to the south in case they shall be supplied by the Long Beach Company.

2. That the Southern California Gas Company shall at its own expense construct a suitable pipe line, not less than eight inches in internal diameter, for conveying gas from the gas plant of the Southern California Company in Los Angeles to a point on the northerly limits

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of the city of Long Beach, which pipe line is to be completed, unless unavoidably delayed, by July 1, 1912. The Long Beach Company is to construct a continuation of this pipe line to its own gas plant in Long Beach.

3. That upon completion of its pipe line the Southern California Gas Company shall furnish to the Long Beach Consolidated Gas Company artificial gas until such time as the company shall be prepared to supply natural gas, which last named date shall not be later than January 1, 1913. If the Southern California Gas Company is unable to furnish natural gas on or before January 1, 1913, it agrees to furnish artificial gas to the Long Beach Company during the remaining period of the agreement.

4. That all gas shall be measured at the point of delivery at the city limits of Long Beach by meters furnished and installed by the Southern California Gas Company.

5. That the Long Beach Consolidated Gas Company shall pay the Southern California Gas Company for all gas furnished under the contract a sum equal to the cost of said gas to the Southern California Company at the point of delivery, plus 5 cents per thousand cubic feet so delivered. The term, "cost to the company," shall include the following items: (*a*) In the case of natural gas the actual cost to the Southern California Company of the natural gas at the West Glendale terminus of the Midway Gas Company's pipe line, including the cost of compression at the company's works is necessary. (*b*) Interest to be figured at 6 per cent per annum on that portion of the Southern California Company's investment necessary to supply the Long Beach Company, based on the ratio that the proceeds of gas delivered to the Long Beach Company bears to the total proceeds of gas generated or transmitted by or through such investment, which investment includes for natural gas: *First,* the high pressure transmission line from the West Glendale terminus of the Midway Gas Company's line to the Southern California Company's gas works in Los Angeles; *second,* the machinery located in said gas works used in the compression or delivery of the gas; *third,* the high pressure transmission line of the Southern California Company from its gas works in Los Angeles to the city limits of the city of Long Beach. (*c*) Depreciation figured at 5 per cent per annum on said investment. (*d*) An amount to provide for taxes equal to 4 per cent of the gross amount paid to the Southern California Company by the Long Beach Company under the agreement. (*e*) An allowance to be added of 5¼ per cent to provide for leakage in transmission. It is further provided that the maximum price which the Long Beach Consolidated Gas Company may be required to pay for natural gas shall not exceed 27½ cents per thousand cubic feet.

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In connection with former proceedings before the Commission, a careful investigation was made of each element entering into the final cost of natural gas delivered at the West Glendale terminal station of the Midway Gas Company's transmission line. A uniform price of 14 cents per thousand cubic feet on a four-ounce basis was established by the Commission for all natural gas delivered at West Glendale, and the Southern California Gas Company thereafter voluntarily filed an additional rate of 12 cents per thousand cubic feet for natural gas to be utilized for fuel purposes. Having already established the basic cost of natural gas delivered at the West Glendale terminal station, the only question remaining to be determined in this case is the fair additional cost of receiving the gas at the West Glendale station and delivering it to the city limits of Long Beach, including the intermediate handling of the gas at the Southern California Gas Company's works in Los Angeles. In addition to the cost of natural gas at West Glendale the three remaining elements of cost involved in this case, including the investment represented by each, appear to be as shown in the following table:

TABLE I.

Elements of Cost Entering Into the Full Cost of Natural Gas at Long Beach.

1.	Primary transmission: 10.637 miles of 16-inch line from West Glendale to Tenth street and Santa Fe avenue, Los Angeles	$145,167 73
2.	Plant operation at Los Angeles: Equipment at the gas works in Los Angeles for receiving, compressing and transferring the gas from the primary to secondary transmission lines and distribution system, including buildings and a pro rata of real estate	$105,059 51
3.	Secondary transmission: 17.926 miles of 8-inch line from Tenth street and Santa Fe avenue, Los Angeles, to the city limits of Long Beach, including measuring and regulating equipment at delivery point	$67,583 13

Of the total investment shown in Table I it is obvious that each of the three general items are only partially chargeable to Long Beach service, and while it is possible to ascertain, theoretically, the investment chargeable to Long Beach it is not thought necessary for the purpose of this case to make such a segregation of capital for the reason that the same result can be accomplished more directly by considering each element of cost separately and then combining the several elements into a final complete cost at Long Beach.

The rate of return which will be used in arriving at a fair price to be charged for natural gas delivered at Long Beach is 8 per cent, which rate we consider fair to both the city of Long Beach and to the Southern California Gas Company, under the circumstances of this

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case. It is to be noted that while the rate of return, set forth in the contract between the Southern California Gas Company and the Long Beach Consolidated Gas Company hereinbefore referred to, is 6 per cent, an arbitrary addition of 5 cents per thousand cubic feet is also made, which additional sum would increase the actual rate of return to be received by the Southern California Gas Company to at least the rate provided for herein.

The rate of depreciation provided for in the contract is thought to be in excess of the amount required to take care of such replacements as may become necessary to plant and equipment, which plant and equipment, even if the supply of natural gas should for any reason be discontinued, would still be necessary for supplying artificial gas.

The cost of primary transmission from West Glendale to the gas works of the Southern California Gas Company in Los Angeles is shown in the following table:

TABLE II.

Primary Transmission Cost of Natural Gas from West Glendale to the Company's Gas Plant in Los Angeles.

Investment (see Table I)		$145,167 73
Estimated amount of natural gas delivered at company's works	1,104,000,000 cubic feet	
Estimated cost of primary transmission:		
Interest at 8 per cent	$11,613 42	
Depreciation	2,695 93	
Operation and maintenance	3,000 00	
General expense (including taxes)	1,711 91	
Total		$19,021 26
Cost per thousand cubic feet delivered at company's works in Los Angeles, exclusive of basic cost at West Glendale		$0 017229

In the above table the amount of gas to be delivered through the 16-inch line was arrived at by taking the total sales of the Southern California Gas Company for the year ending June 30, 1914, and correcting this amount for the percentage of natural gas in the mixture and for the losses, and adding to the sum so obtained the amount of natural gas used by the company in its works at Los Angeles. Transmission losses have been taken as equal to 1 per cent of the input into the line at West Glendale. The amount of natural gas transmitted through this main during this year was but a small part of its capacity; and it will undoubtedly be necessary hereafter to revise this figure.

The next element of cost to be considered is that incidental to receiving, compressing and transferring the gas to the Los Angeles–Long Beach line, and is shown in Table III.

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TABLE III.

Cost of Plant Operations in Los Angeles.

(Receiving, Compressing and Transferring Gas.)

Investment (see Table I)		$105,059 51
Estimated output of compressor station 1,476,200,000 cubic feet		
Estimated cost of plant operations:		
Interest at 8 per cent	$8,404 76	
Depreciation	1,422 40	
Operation and maintenance	24,897 42	
General expense (including taxes)	3,434 29	
Total		$38,158 87
Cost per thousand cubic feet of gas delivered into secondary transmission and distribution lines		$0 025849

The volume of gas passing through the compressor station as shown in the above table is based on the assumption that 95 per cent of all gas sold is compressed and the losses in receiving, compressing and transferring equipment have been taken as 1.77 per cent, corresponding to 1.75 per cent of the gas received into the 16-inch line at West Glendale.

The cost of secondary transmission, being the cost of conveying the gas received at the gas plant of the Southern California Gas Company in Los Angeles to the city limits of Long Beach, measuring and regulating the gas at the latter point, and delivering it into the pipe line of the Long Beach Consolidated Gas Company, is shown in the following table:

TABLE IV.

Cost of Secondary Transmission.

(From the works in Los Angeles to Long Beach.)

Investment (see Table I)		$67,583 13
Estimated amount of gas sold from Los Angeles–Long Beach transmission line 239,000,000 cubic feet		
Estimated cost of secondary transmission:		
Interest at 8 per cent	$5,406 65	
Depreciation	1,231 82	
Operation and maintenance	2,000 00	
General expense	854 35	
Total		$9,492 82
Cost per thousand cubic feet delivered into the Long Beach Consolidated Gas Company's line at Long Beach		$0 039719

The amount of gas sold from the Long Beach line is the actual reported sales to the Long Beach Consolidated Gas Company plus the gas manufactured in Long Beach, which combined amount is assumed to be 98 per cent of the total volume delivered from the line. The losses in secondary transmission and delivery have been taken at 5.4 per cent, or 5.25 per cent of the gas received at West Glendale for transmission to Long Beach.

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Having determined each individual element of cost entering into the full cost of gas at the city limits of Long Beach, it is now necessary to combine these costs after correcting for losses. The final cost has been determined as shown in Table V.

TABLE V.

Full Cost of Natural Gas at the City Limits of Long Beach.

Basic cost of natural gas at West Glendale corrected for losses and taxes	$0 159510
Primary transmission cost corrected for losses	018539
Plant operation cost corrected for losses	027324
Secondary transmission cost on basis of gas delivered	039719
Total cost of gas at Long Beach on the basis of operating conditions for the year ending June 30, 1914	$0 245092

Up to this point the probable effect of increased business has not been taken into consideration, and while it is not reasonable to suppose that there will be no increase in the amount of gas sold, we may assume, for the purpose of this case, that the reduction in cost due to the increasing demands of communities supplied by the systems of both the Southern California Gas Company and the Long Beach Consolidated Gas Company would be largely offset, for a time at least after the introduction of natural gas, by the decreased consumption, due to the higher heating value of the natural product.

Considering the matter from all points of view we find that, under present conditions, the sum of 24.5 cents per thousand cubic feet of natural gas delivered into the lines of the Long Beach Consolidated Gas Company at the city limits of Long Beach is a just and reasonable rate to be charged by the Southern California Gas Company for natural gas so supplied by it.

We submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the case having been submitted and being now ready for decision,

The Railroad Commission hereby finds as a fact that the rate or charge for natural gas as set forth in a certain contract between Southern California Gas Company and Long Beach Consolidated Gas Company, which contract is dated March 22, 1912, and provides among other things for the sale and delivery of natural gas by Southern California Gas Company to the Long Beach Consolidated Gas Company at the city limits of Long Beach is unjust and unreasonable in so far as said rate or charge differs from the rate herein established, and that the rate herein established is a fair and reasonable rate to be charged by Southern California Gas Company for natural gas so delivered.

Basing its order on the foregoing finding of fact and on the further findings which are contained in the opinion which precedes this order,

It is hereby ordered that Southern California Gas Company be and

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the same is hereby directed to establish and file with this Commission, within twenty (20) days from the date of this order, a rate of twenty-four and one half (24½) cents per thousand cubic feet on a pressure basis of four (4) ounces, for all natural gas which said Southern California Gas Company may supply at wholesale at the city limits of the city of Long Beach.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of October, 1914.

DECISION NO. 1886.

IN THE MATTER OF THE APPLICATION OF SAN RAFAEL AND SAN ANSELMO VALLEY RAILWAY COMPANY FOR AN ORDER AUTHORIZING S. J. NORTON TO ASSIGN AND TRANSFER CERTAIN STREET RAILROAD FRANCHISES TO SAID COMPANY, AND OF SAID RAILWAY COMPANY TO ISSUE STOCKS AND BONDS.

Application No. 770.

Decided October 19, 1914.

The Commission, when authorizing applicant to issue stock and bonds upon the above application, provided that none of such moneys could be used for construction purposes until $50,000.00 had been raised and deposited to applicant's credit, and applicant being unable to raise this amount applies to the Commission to redistribute the certain amount already deposited.

Held, Bills incurred for printing, legal advice, etc., to the amount of $1,539.50, by consent of creditors, is reduced to $817.50, which amounts, together with an allowance in favor of Mr. S. J. Norton for cash advanced in the sum of $284.50, are directed to be paid from moneys so far collected, the balance on hand to be returned in ratable amounts to the various subscribers. Claim of S. J. Norton for $1,220.00, covering services as promoter, disallowed.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

SUPPLEMENTAL OPINION.

On November 11, 1913, this Commission made an order in this proceeding authorizing San Rafael and San Anselmo Valley Railway Company to issue $55,000.00 par value of stock and $45,000.00 face value of bonds upon certain specified conditions. One of those conditions provided that "all moneys secured from the sale of stock and bonds shall be deposited by San Rafael and San Anselmo Valley Railway Company in a bank or banks in Marin County, California, as trust funds, on the express condition that if the total sum of $50,000.00 shall not be so deposited in all of said banks within one year from the date of this

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order, or such further time as the Railroad Commission may grant, said moneys shall be repaid to the persons who paid them, either *in toto* or diminished by their ratable proportions of such small expenditures as the Railroad Commission in the mean time may have authorized." This condition was inserted in the order for the purpose of securing to purchasers of applicant's stock and bonds a return of their money in the event that the project was not carried through to completion. On September 24, 1914, the railway company filed a petition with this Commission setting forth that it is impossible to sell enough stock and bonds to insure the successful completion and operation of the line, and requesting the Commission to hold a hearing to determine the proper disposition to be made of such moneys as have been collected from the sale of applicant's stock, and deposited in banks in accordance with the Commission's order. Applicant has obtained various subscriptions to its stock but has obtained no subscriptions to its bonds. In accordance with applicant's petition, the Commission held a hearing in San Rafael on October 12, 1914, and the matter is now ready for decision.

I shall first consider the amount of money collected by applicant and deposited in banks; second, the debts which applicant has incurred and whether they should be paid from this fund; and, finally, the manner in which the remainder of the fund shall be returned to the persons who paid their money into the fund.

Applicant has issued two calls upon the subscribers to its stock. The first call was for the payment of 10 per cent, and the second for 20 per cent of the par value of the stock subscribed. The moneys paid to applicant in response to these calls have been deposited in the First Bank of San Anselmo and the Marin County National Bank of San Rafael as follows:

The First Bank of San Anselmo:		
First call	$1,010 00	
Second call	780 00	
Total		$1,790 00
The Marin County National Bank of San Rafael:		
First call	$1,790 00	
Second call	1,330 00	
Total		3,120 00
Grand total		$4,910 00

This statement shows that applicant has collected $4,910.00 from the sale of its stock. Allowance must be made from this sum for the payment of such expenses as applicant has properly and justly incurred. The remainder must be returned to the stockholders in accordance with the Commission's order.

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It is necessary now to determine the proper sum to be allowed applicant for the payment of bills rendered to it. The following bills have been presented:

1. S. J. Norton for cash advanced:		
Cost of San Rafael franchise	$25 00	
Cost of Marin County franchise	25 00	
Cost of San Anselmo franchise	50 00	
Acknowledgments of franchise bonds	43 00	
Fee for articles of incorporation	76 25	
Fee on order of Railroad Commission	45 00	
Acknowledgment on order of Railroad Commission	1 00	
Sign (painted)	5 00	
Typewriting applications	10 95	
Stamps	3 30	
Total		$284 50
2. San Rafael Journal	$137 00	
3. San Anselmo Herald	32 00	
4. Tocsin Publishing Company	594 50	
5. The Independent Publishing Company	141 00	
6. Sausalito Publishing Company	45 00	
7. Edward I. Butler	500 00	
8. Geo. L. Richardson	58 50	
9. Payot, Stratford & Kerr	6 50	
10. C. S. Whitaker	25 00	
Total		1,539 50
11. S. J. Norton:		
Services as promoter and stock salesman, October, 1912, to July, 1913, inclusive	$1,100 00	
Services in obtaining franchises	120 00	
Total		1,220 00
Grand total		$3,044 00

I desire to give separate consideration to each of these bills to determine whether the expense represented thereby is a proper one, and, if so, whether the amount of the bill is proper. The first bill represents cash advanced by S. J. Norton, the promoter of this enterprise, for the various items there specified. These items include moneys paid to the cities of San Rafael and San Anselmo and to the county of Marin for franchises granted applicant to construct and operate a street railway system within their limits. The fees collectible by the secretary of state upon the filing of applicant's articles of incorporation, and by the Railroad Commission upon the making of its order authorizing the sale of bonds are also included. Certain moneys were also advanced to pay notaries' fees and for typewriting. Applicant also procured a large painted sign, which was hung in front of its office in San Rafael. I believe no one will question the propriety of these expenses, and, as they appear to be not excessive, I recommend the payment in full of the bill of $284.50 presented by S. J. Norton.

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The San Rafael Journal presented a bill for $137.00. This is made up of an item of $75.00 for five publications of Ordinance No. 106 of the city of San Anselmo, this being applicant's franchise to operate its street railway in that city. Other items amounting to $62.00 represent advertisements in the Journal and stationery purchased by applicant. S. H. Olmstead, proprietor of the Journal, testified at the hearing that the item of $75.00 for publishing the franchise ordinance should be eliminated from this bill, as this item is covered by the bill of $32.00 presented by the San Anselmo Herald, in which paper the publications were actually made by arrangement with the Journal management. With this revision, I believe these bills are proper and should be allowed. I accordingly recommend the payment of $62.00 to the San Rafael Journal and $32.00 to the San Anselmo Herald.

The Tocsin Publishing Company submitted a bill for $594.50. This sum consists chiefly of items for publishing in the Marin County Tocsin Ordinance No. 3 of the city of San Rafael and Ordinance No. 162 of the county of Marin, these being franchises granted to applicant. The remainder of the bill represents advertisements and stationery. Edward W. Netherton, manager of the Tocsin Publishing Company, has voluntarily agreed to accept one half of this bill in full payment thereof. This is a very commendable attitude to display, and I recommend the payment of $297.25 in settlement of the claim of the Tocsin Publishing Company.

Other creditors of applicant have expressed a willingness to reduce their claims to any amount suggested by the Commission. These creditors are M. F. Cochrane, manager of the Independent Publishing Company, which presented a bill of $141.00 for publishing applicant's franchise and various advertisements in the San Rafael Independent; Edward I. Butler, who has presented a bill of $500.00 for legal services rendered to applicant from the time this enterprise was first conceived, and George L. Richardson, who has a claim of $58.50 for the preparation of certain engineering data and blue prints for the proposed road. All of these men, realizing that this enterprise has largely been a community enterprise, have stated that they are willing to bear a portion of the loss. They are willing to accept any amount suggested by the Commission in full payment of their claims. The Commission appreciates the public spirit of the men who make this offer. I recommend a reduction in these claims on the same basis as that of the Tocsin Publishing Company, and shall allow $70.50 to the Independent Publishing Company, $250.00 to Edward I. Butler, and $29.25 to George L. Richardson.

Payot, Stratford & Kerr have presented a claim of $6.50 for a minute book purchased by applicant, Sausalito News Publishing Company a claim of $45.00 for publishing the Marin County franchise, and C. S.

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Whitaker $25.00 for services rendered as secretary of applicant and in typewriting the minutes of eight meetings of the board of directors. I am of the opinion that each of these claims is proper and reasonable in amount and I shall make allowance for their payment in full.

S. J. Norton has presented a bill amounting to $1,220.00 for services rendered in promoting the enterprise, selling stock, and obtaining franchises. I have given very careful consideration to this item. When applicant first appeared before the Commission seeking authority to issue stock and bonds, Mr. Norton and others testified that this was a community enterprise. These men owned land in the district to be served by the road. It was not expected that the road would pay for a number of years. These land owners looked for their reward in the enhanced value of their lands, due to the construction of the road. In the order of the Commission authorizing applicant to issue stock and bonds, it was provided that certain sums might be paid to Mr. Norton for promotion services when $50,000.00 had been collected from the sale of stock and bonds, and further sums when the railway was completed and in operation. The opinion of the Commission expressly stated, however, that "it does not seem reasonable that a promoter should receive his fee before he has demonstrated that his enterprise is successful and is of public service." Under all of these circumstances, I can not recommend the payment to Mr. Norton of any sum for promotion services. He, like others, hoped by the construction of this road to increase the value of land in which he is interested. He proceeded under the Commission's order which provided for promotion fees only in the event that the road was completed and put in operation. I can not escape the conclusion that, although Mr. Norton has expended considerable time and energy in promoting this road, he should not be compensated from moneys paid in by the stockholders on the express condition that if the enterprise were not successful the moneys paid would be returned after paying such small expenses as, in the opinion of the Commission, were properly incurred. This is the chance Mr. Norton took in case the enterprise failed, as it has done. As already stated, however, Mr. Norton should be reimbursed for such moneys as were properly advanced by him for necessary expenses. This is taken care of in the $284.50 for which allowance has been made.

These are all the bills which have been presented and, as revised, amount in all to $1,102.00, which should be paid from the $4,910.00 available. I shall now consider the manner of disposing of the remaining $3,808.00. As already mentioned, the money on deposit represents two calls upon the stockholders: $2,800.00 was obtained by the first call and $2,110.00 by the second call. Provision is to be made for the payment of bills amounting to $1,102.00. I believe that all of this amount should be paid from the $2,800.00 collected on the first call, and that

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all moneys paid on the second call should be returned in full to the stockholders in the amounts in which the money was deposited. There is $2,800.00 first-call money from which $1,102.00 is to be taken to pay the bills allowed. There is $1,790.00 first-call money on deposit in the Marin County National Bank of San Rafael. I accordingly recommend that all creditors be paid the amounts allowed them, from the first-call funds deposited in this bank. This will leave $688.00 first-call funds on deposit in the Marin County National Bank for distribution to the stockholders. In order to avoid confusion, this sum should be transferred to the First Bank of San Anselmo and added to the $1,010.00 first-call funds already deposited there. This bank may then distribute the total sum of $1,698.00 ratably to all stockholders who paid first-call funds into either the Marin County National Bank of San Rafael or the First Bank of San Anselmo. This will provide for the disposition of all the moneys collected from the sale of stock. The two banks should make verified reports to the Commission each week until all the money on deposit has been paid out, stating the amount of money paid out during the preceding week and the persons to whom the money was paid.

I submit herewith the following form of supplemental order:

SUPPLEMENTAL ORDER.

This Commission having, on November 11, 1913, made an order in this proceeding authorizing San Rafael and San Anselmo Valley Railway Company to issue $55,000.00 par value of stock and $45,000.00 face value of bonds on certain conditions, one of which was that applicant should not begin the construction of its road until $50,000.00 had been procured in cash from the sale of the securities authorized to be issued and had been deposited in banks in Marin County, California, and that if such sum was not so collected and deposited within one year from the date of the order, or such further time as this Commission should allow, such money as had been collected should be returned to the purchasers of securities after provision was made for the payment of such expenses as, in the opinion of the Commission, applicant had properly incurred, and applicant having, on September 24, 1914, filed with this Commission its supplemental petition setting forth that it is impossible to sell enough stock and bonds to construct the street railway system as planned, and asking this Commission to make its supplemental order directing the manner in which the moneys collected from the sale of securities should be disbursed, and it appearing that $4,910.00 has been collected from the sale of stock and that no moneys have been collected from the sale of bonds, and it appearing further that this sum of

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$4,910.00 was obtained in response to two calls upon the purchasers of stock, and has been deposited in banks in Marin County as follows:

The First Bank of San Anselmo:		
First call	$1,010 00	
Second call	780 00	
Total		$1,790 00
The Marin County National Bank of San Rafael:		
First call	$1,790 00	
Second call	1,330 00	
Total		3,120 00
Grand total		$4,910 00

and it appearing that this money is to be returned to the stockholders in accordance with the Commission's order,

It is hereby ordered that the First Bank of San Anselmo and the Marin County National Bank of San Rafael be and they are hereby authorized and directed to pay out seven hundred eighty (780) dollars and one thousand three hundred thirty (1,330) dollars, respectively, to stockholders of applicant who have deposited money in response to applicant's second call for payment upon stock sold, this money to be paid out to each party in whose name the money was deposited, and in an amount equal to the sum deposited.

It is further ordered that the Marin County National Bank of San Rafael be and it is hereby authorized to pay out of the one thousand seven hundred ninety (1,790) dollars deposited with it by applicant's stockholders in response to applicant's first call for payment on stock sold, the following sums to the following creditors of applicant:

S. J. Norton	$284 50
San Rafael Journal	62 00
San Anselmo Herald	32 00
Tocsin Publishing Company	297 25
The Independent Publishing Company	70 50
Sausalito Publishing Company	45 00
Edward I. Butler	250 00
Geo. L. Richardson	29 25
Payot, Stratford & Kerr	6 50
C. S. Whitaker	25 00
	$1,102 00

and said bank is directed to deposit the remaining six hundred eighty-eight (688) dollars of this sum of one thousand seven hundred ninety (1,790) dollars with the First Bank of San Anselmo, and to furnish said bank with a complete statement setting forth the names of the parties who have deposited money in this fund of one thousand seven hundred ninety (1,790) dollars and the amount deposited by each.

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It is further ordered that the First Bank of San Anselmo be and it is hereby directed to credit the sum of six hundred eighty-eight (688) dollars which the Marin County National Bank of San Rafael is herein directed to deposit with the First Bank of San Anselmo to the fund of one thousand ten (1,010) dollars representing the moneys in the last named bank deposited by stockholders of applicant in response to the first call for payment on applicant's stock, and said the First Bank of San Anselmo is further directed to pay out all of said aggregate fund of one thousand six hundred ninety-eight (1,698) dollars to the stockholders of applicant who deposited money in either of said banks in response to applicant's first call for payment upon its stock, the amount of money to be repaid to each depositor in the ratable proportion which the aggregate fund to be distributed, *i. e.*, one thousand six hundred ninety-eight (1,698) dollars bears to the aggregate of such deposits, *i. e.*, two thousand eight hundred (2,800) dollars.

It is further ordered that each of said banks shall, on each Monday, make a verified report to this Commission, stating the amount of money paid out under the terms of this order during the preceding week, the persons to whom such money was paid and the amount paid to each.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of October, 1914.

DECISION NO. 1887.

IN THE MATTER OF THE APPLICATION OF TRONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCKS AND BONDS.

Application No. 1142.

Decided October 19, 1914.

Applicant, Trona Railway Company, authorized to execute a deed of trust covering its property as security for bonds of the face value of $1,000,000.00 and to issue $150,000.00 par value of its stock to the American Trona Company in discharge of a like amount of indebtedness now owed the latter company; also to issue bonds of the face value of $550,000.00, to be sold at not less than 85, proceeds to be used in payment of indebtedness now due American Trona Company, provided that said bonds shall be guaranteed by latter named company.

C. W. Slack, Joseph K. Hutchinson and *Chauncey N. Goodrich* for Applicant.

Bert Schlesinger and *R. P. Henshall, P. S. Erlich* and *Clayberg & Whitmore*, for Protestants.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

California Trona Company claims the ownership of, and is in possession of, extensive mineral deposits of potash, borax, carbonate of soda, and other salts, covering about 40,000 acres of land in the northwesterly corner of San Bernardino County, in and about what is called Searles Lake.

American Trona Corporation has a contract with California Trona Company to take certain of the products of said mineral deposits. American Trona Corporation has invested large sums of money in the development of these mineral deposits, and in order to provide adequate transportation facilities from said Searles Lake to the Southern Pacific Railroad at a station called Searles, Trona Railway Company has been organized as a corporation and has built a railroad of about thirty-one and one half miles in length between these points.

American Trona Corporation has advanced all of the money for the building of this road, amounting to $682,453.00.

Authority is now asked by Trona Railway Company to mortgage its property as security for the issuance of a possible $1,000,000.00 of bonds, and to issue at once $550,000.00 face value of such bonds, to be sold at not less than 85 per cent of par, the proceeds to be paid to American Trona Corporation in part compensation for advances, and authority is also asked for permission to issue $150,000.00 par value of the capital stock of Trona Railway Company, which stock is to be taken by American Trona Corporation at par in cancellation and payment of an equal amount of advances heretofore made.

The engineers of this Commission have made a careful check of the cost of building this railroad, and also of the manner of its construction, location, etc., and they report that the costs are reasonable, and the road has been well located and efficiently built.

While this road must depend primarily upon the products of the mineral deposits in and about Searles Lake, still there is no doubt that the country between this lake and the junction of this railroad with the Southern Pacific is considerably mineralized, and there will probably be some traffic offered other than that which is produced by American Trona Corporation.

At the first hearing of this application a protest was filed by persons claiming the ownership and right to possession of the mineral deposits at Searles Lake, but at the second hearing these protestants only urged that the rights of the public be considered in this matter, but they neither introduced nor offered any evidence, hence the usual consideration will be given weight in determining this matter.

I am satisfied from the evidence that this railroad has been well and economically built and that it will be efficient for the main purpose

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intended, to wit, the transportation of products from Searles Lake in one direction, and the transportation of supplies, men, etc., in the other, and that in all probability sufficient traffic will be offered this road to warrant its operation. I think, however, that in view of the fact that in the event of a failure for any cause of the Searles Lake mineral project to produce sufficient traffic to permit applicant to pay its bond interest, that the purchasers of said bonds would be seriously injured; and, further, that the American Trona Corporation being the principal interested party in the building of this road, that this latter corporation should guarantee the payment of principal and interest of these bonds.

Herewith the following form of order:

ORDER.

Application having been made by Trona Railway Company for an order authorizing the execution of a trust deed conveying its property as security for the payment of $1,000,000.00 face value of thirty-year 5 per cent bonds, and for an order authorizing the issuance of $550,000.00 face value of such bonds, and $150,000.00 par value of stock, and a public hearing having been held, and it appearing to the Commission that the proceeds from the sale of said stock and bonds are reasonably necessary for the payment of the obligations of applicant, and that the proceeds from the sale of said stocks and bonds are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered, by the Railroad Commission of the State of California, that Trona Railway Company is hereby authorized to execute a deed of trust conveying its property as security for the payment of the principal and interest of $1,000,000.00 face value of bonds, said bonds to bear interest at the rate of 5 per cent per annum and to mature in thirty years. Said deed of trust shall be in substantially the form as set out in a copy of a proposed deed of trust, marked Exhibit "I," on file herein.

Trona Railway Company is further authorized to issue $550,000.00 face value of said bonds to be sold at not less than 85 per cent of face value, the proceeds thereof to be used only for the purpose of paying off a like amount of indebtedness now owed by Trona Railway Company to American Trona Corporation.

Trona Railway Company is further authorized to issue $150,000.00 par value of its capital stock, said capital stock to be delivered to American Trona Corporation in full payment and discharge of $150,000.00 of indebtedness now owing by said Trona Railway Company to said American Trona Corporation.

Provided, the bonds hereinabove authorized shall not be issued until American Trona Corporation shall have, in writing, duly guaranteed

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the payment of the principal and interest of said bonds, and shall file for the approval of the Commission such guarantee.

Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the bonds and stock herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, stating the sale or sales of bonds or stock during the preceding month, the terms and conditions of such sale, the moneys realized therefrom and the use and application of such moneys, all as provided in this Commission's General Order No. 24.

This order, in so far as it authorizes the issue of bonds, shall not become effective until the fee prescribed in section 57 of the Public Utilities Act, as amended, has been paid.

The authority hereby given to issue bonds and stock shall apply only to bonds and stock issued by said company on or before April 15, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of October, 1914.

DECISION No. 1888.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AUTHORITY TO ISSUE EIGHT HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS IN BONDS.

Application No. 1240.

Decided October 19, 1914.

Applicant, operating a line of railway between La Jolla and San Diego which had been permitted to deteriorate to such an extent that only extremely inadequate service could be given, secured an extension of its franchises for a period of thirty-eight years and accordingly applies to the Commission for permission to issue bonds of the face value of $825,000.00, sufficient to cover cost of electrizing its system.

Held, In view of the fact that applicant's line was operated at a loss during the last year, bonds only to an amount sufficient for the purposes of electrization should be permitted at the present time, proposed improvements and additions to be deferred for a time until earnings warrant a bond issue for this purpose. Applicant given permission to issue bonds sufficient to yield the sum of $250,000.00 only after applicant shall have filed a detailed estimate of the cost of proposed improvements and same shall have been approved and a supplemental order issued prescribing the amount of bonds to be issued, approving a mortgage and deed of trust securing same, and the purposes for which the proceeds shall be devoted.

Leovy & Leovy, and *George J. Leovy*, for Applicant.

Edward F. Stahl, E. G. Helm and *Dr. J. Mills Boal*, for La Jolla Chamber of Commerce.

Henry C. Gardiner, for Pacific Beach Club.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Los Angeles and San Diego Beach Railway Company operates a line of railway from San Diego to La Jolla. The line is divided into two sections, the first comprising an electric street railway in the city of San Diego, and the second embracing a steam line from the Santa Fe depot in San Diego to La Jolla. The company operates for a distance of 17.61 miles. Its yard tracks and sidings give it a total mileage of 21.54 miles.

Under the present system of operation, passengers transfer from the electric line at the Santa Fe station to the steam line and *vice versa.* A large number of complaints have come to the office of this Commission against the service rendered by the Los Angeles and San Diego Beach Railway. This Commission made an investigation into the service rendered and on December 20, 1913, in Decision No. 1150, Case No. 455, directed as follows:

> "*It is hereby ordered* (1) that defendant shall, within thirty days after service upon it of this order, make application to the common council of the city of San Diego for an extension of its franchises, and shall assure said common council that if the franchises are granted the following provisions of this order will be observed.
>
> (2) Within thirty days after the awarding of the extension of said franchises to defendant, said defendant shall make application to this Commission in proper form for the authorization of a bond issue, the proceeds of which shall be used to electrify its line of railway between La Jolla and San Diego and improve its track structure and roadbed.
>
> (3) Within one year after the authorization of said bond issue by this Commission, defendant shall have electrified its line between San Diego and La Jolla and operate electric cars over the same with such frequency as shall afford the patrons of defendant a reasonable and adequate service, and this Commission will recognize any arrangement that is made between defendant and the common council of the city of San Diego by franchise or otherwise relative to the operation of trains over the lines of defendant by steam power."

Certain of the franchises under which Los Angeles and San Diego Beach Railway Company operated terminate in 1918. This company has now been granted new franchises covering its operations over and along the streets of San Diego for a period of thirty-eight years, to 1952. After some delay this company filed its application with the Commission for an issue of bonds. That application is now before the

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Commission. A hearing was held and investigation made on behalf of the Commission into the various aspects of the problems presented.

In its application herein, Los Angeles and San Diego Beach Railway Company asks for authority to issue $825,000.00 of first mortgage 5 per cent forty year bonds. It proposes to use the proceeds from the sale of these bonds for the following purposes:

For electrization of road	$331,938 63
For roadway track and structures	36,069 00
For terminals, stations and road changes	134.604 75
To refund indebtedness due Mr. E. S. Babcock	180,585 96
For interest during the first year	40,000 00
Total	$723,198 34

Applicant proposes to sell the $825,000.00 of bonds at 85 per cent of par, which would yield approximately $721,250.00.

The engineering department of this Commission has gone very carefully over the estimates submitted by the applicant herein. It first appears that the proposed expenditures for stations, road changes, terminals, etc., are not now absolutely necessary. These items amount to a total of $134,604.75. I shall therefore recommend that the applicant postpone these proposed expenditures for the present.

Applicant has included in its estimate the sum of $40,000.00 for interest during construction. This is not a proper capital charge, for the reason that this railway is now in operation and will be in continuous operation during the construction work. There is no necessity for an interruption in service and there will be no need therefore to capitalize an item of interest.

We have left, therefore, for consideration, these three items:

(*a*) Applicant's estimate of the cost of electrization	$331,938 63
(*b*) Applicant's estimate of expenditures for roadway, track and structures	36,069 00
(*c*) Amount due Mr. Babcock	180,585 96

After the hearing was closed the applicant itself evidently realized that its estimate for the electrization of its system was unduly high, for it communicated with this Commission and asked for an opportunity to present new and lower estimates. As the engineering department of this Commission had, in the meanwhile, readjusted these estimates, I have felt that nothing would be gained by further delay, and believe there are ample data at hand to warrant this Commission in proceeding to reach a conclusion on this application.

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The estimates of the engineering department for the electrization of this road may be summarized as follows:

Poles, feeders and distribution system	$51,200 00
Track bonding	9,333 00
Land.—The company proposes to buy from E. S. Babcock, president of the company, four lots in San Diego at a total cost of $40,000.00. It is not deemed necessary to purchase this land, as the company has other real estate in this vicinity which would suffice. The engineering department has therefore eliminated this item.	
Land for main substation, machine shop, car barn, repair shop, etc.—The company estimated eight and one half acres, but this estimate has been readjusted to four acres, at a cost of	5,000 00
Main substation and building.—The company's estimate provides for powerhouse with 600 horsepower engines and generators. It appears, however, that arrangements can be made for the present to purchase power. The revised estimate, therefore, provides for either the installation of 1,200 volt motor generator sets or rotary converters. This estimate was placed at	24,000 00
Substation.—Substation equipment in San Diego, estimated at	10,000 00
Car barn and other buildings	10,000 00
Freight and passenger depot at San Diego	7,500 00
Equipment.—One gas engine motor car converted into combination baggage and passenger car; five passenger cars with electric equipment, etc.; four passenger trailer cars—total equipment	74,000 00
Total	$192,033 00
Ten per cent for contingencies	19,203 00
Total	$211,236 00

It will be necessary for the engineers representing the applicant to confer with the engineering department of this Commission in order that the estimates may be reduced to a practical working basis to suit the purposes of the company. When the engineers for the applicant revise their estimates, they should submit them in detail, so they may be formally passed upon by this Commission. However, I am of the opinion that the summary as here given will provide a working basis upon which the applicant can proceed.

Applicant submitted a list of necessary expenditures for roadway, track and structures in the sum of $36,069.00. A close examination into these items discloses that of this sum, $27,909.00 is more properly chargeable to maintenance. However, this work for roadway, track and structures must be done in order that the property may be brought to a desired state of efficiency for operation when electrized.

There remains for consideration the sum due Mr. E. S. Babcock, amounting to $180,585.96, represented in part by notes and in part by an open account. Mr. Babcock controls all but the qualifying directors' shares of the stock of Los Angeles and San Diego Beach Railway Company.

After an investigation of the service of this company, the Commission recommended that it be electrized. The company thereafter filed

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its application, which is now before the Commission. The purpose at this time is to provide funds, if possible, for the electrization of this line. At present its service is admittedly poor. The people who have purchased homes and settled in La Jolla, Pacific Beach and other places along this line are entitled to relief. Obviously in this situation it would be unwise to burden this property with a larger amount of bonds than is absolutely necessary. Its earnings have been limited, and the conversion into an electric road must be, in the beginning, experimental. If larger earnings flow from this conversion, it will in all probability admit of a greater issue of bonds than now seems advisable. It is my belief that in this situation every consideration should give way to the primary object sought: namely, the electrization of this road and its complete rehabilitation, so that it may give an efficient service. After this has been accomplished and a basis of earnings established under the new conditions, a further hearing may be given the proposal to issue bonds to Mr. Babcock in payment of the notes and open account in his favor.

I have heretofore called attention to the fact that there is urgently needed for rehabilitation of roadway, track and structures of this line, the sum of $36,069.00. It can do no good here to comment upon the policy which neglects proper maintenance and allows facilities to deteriorate so far as to make efficient service out of the question. This condition, of course, should be immediately corrected.

In order that the applicant may raise the funds for this purpose, I shall recommend that bonds be authorized to provide for this rehabilitation of roadway, track and structures; for which the sum of $8,160.00 may properly be allowed for capital purposes. The balance of the $36,069.00 may be authorized as against the indebtedness now due Mr. Babcock and then applied by Mr. Babcock upon road rehabilitation.

On March 30, 1914, in Decision No. 1382 upon Case 131, this Commission proceeded to find the value of the property of the applicant herein. The Commission found that the "reproduction value," as that term is described in Decision No. 1382, of the applicant's property as of June 30, 1912, amounted to $554,589.77; and the "present value," as that term is defined in said decision, amounted to, as of June 30, 1912, $461,015.91.

To May 31, 1914, there was charged by the company to additions and betterments, the sum of $26,457.27. If the electrization as herein provided is carried out, this will add an investment of $211,236.00, and if the property is rehabilitated as herein proposed, a further sum approximating $36,000.00 will be added to these values. This will give a total valuation of the property rehabilitated and electrized of approximately $700,000.00. This figure is, of course, subject to adjustment.

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While it is possible that such a valuation would in time warrant a bond issue which would provide for the electrization and the complete refunding of the obligations due Mr. Babcock, I am firmly of the belief that at the present time the authorization should go only to the electrization and the rehabilitation of these properties. My reasons for this view are based upon the understanding that the new franchises were granted to the applicant herein by the city of San Diego upon the theory that this company would, in exchange for these grants, electrize and rehabilitate its property, and that it is, therefore, to that extent obligated to do so; and secondly, that the earnings as at present developed would not warrant at this time a further use of bonds than may be absolutely necessary for this electrization and rehabilitation.

For the years ending June 30, 1912, 1913 and 1914, the applicant reports as follows:

	1912	1913	1914
Gross revenues	$76,984 51	$87,892 97	$72,959 19
Operating expenses	56,420 71	68,281 00	63,994 60
Net revenue	$20,563 80	$19,611 97	$8,964 59
Deductions:			
Taxes, rents, interests, etc.	15,375 98	15,717 22	18,629 81
Net income	$5,187 82	$3,894 75	*$9,665 22

*Deficit.

It will be seen, therefore, that while the applicant was able to show a small surplus for the fiscal years ending June 30, 1912 and 1913, it reported a deficit for 1914.

It appears that this line is almost entirely a passenger road. For the fiscal year ending June 30, 1914, for instance, the company's gross revenue was divided as follows:

Freight revenue	$8,508 96
Passenger revenue	61,075 25
Excess baggage revenue	164 25
Mail revenue	455 56
Express revenue	2,126 62
Milk revenue	416 30

This is an indication of the relative importance of the revenue of this road.

The fact that the road has lost patronage during the past three years was explained by certain of its patrons as due to the deterioration of service. For the year ending June 30, 1912, this company carried a total of 522,309 revenue passengers; for the fiscal year ending June 30, 1913, 426,406 revenue passengers; and for the fiscal year ending June 30, 1914, 337,681 such passengers.

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It is the opinion of patrons of this line that its traffic will increase and that it will be able to at least obtain the amount of passenger traffic which attached to its line during the fiscal year 1912, if the improvements herein proposed are made. The demand for this electrization comes very largely and insistently from the present and prospective patrons of this railway. It is clear, however, that for the present only such bonds should be authorized as are absolutely necessary. I regard as advisable for the present the electrization, which has been estimated to cost $211,236.00, and the rehabilitation, to cost $36,069.00, or a total of $247,305.00.

The applicant has submitted a trust deed providing for the issue of 5 per cent bonds. At the time of the hearing the applicant stated that it believed it could sell these bonds at 85 per cent of face value. I shall leave to a supplemental order the details surrounding the issue of these bonds, having it in mind that the applicant may desire to recast to some extent its plans in line with the recommendations herein made. I shall, therefore, at this time not approve applicant's trust deed, but shall leave all these matters to be covered by supplemental order.

For the present, therefore, I recommend that the applicant herein be authorized to issue bonds in sufficient amount to yield $250,000.00 and that it be further authorized to use the proceeds for the electrization of its road and the improvement of its roadway, track and structures.

I therefore submit the following form of order:

ORDER.

Los Angeles and San Diego Beach Railway Company having applied to this Commission for authority to issue $825,000.00 of bonds, and a hearing having been held, and it appearing to this Commission that it is desirable that the applicant herein issue bonds which shall yield in cash $250,000.00;

And it appearing further that the purposes for which said sum of $250,000.00 should be devoted are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Los Angeles and San Diego Beach Railway Company be given authority and it is hereby given authority to issue bonds sufficient to yield it the sum of $250,000.00.

The authority herein given is given upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be issued only after this Commission has issued a supplemental order fixing the amount of bonds to be issued herein, the price at which said bonds shall be sold, approving the mortgage and deed of trust securing said issue of bonds; said supplemental order to be issued by this Commission after the applicant herein has presented estimates as suggested in the opinion herein for the electrization of its railway.

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(2) The proceeds to be derived from the sale of the bonds herein authorized shall be used by the applicant herein for the electrization of its line of railway between San Diego and La Jolla, and for the improvement of its roadway, track and structures, in the sum of $8,160.00, and for the payment of obligations to Mr. Babcock in the sum of $27,909.00 on the condition that the said sum of $27,909.00 shall be used by Mr. Babcock for the rehabilitation of the railway properties.

(3) The Los Angeles and San Diego Beach Railway Company shall, within thirty days, file with this Commission a detailed estimate for the electrization and rehabilitation of its properties, in accordance with the suggestions in the foregoing opinion, and shall also, within thirty days, present to this Commission a statement which shall show the interest rate it proposes that the bonds herein authorized shall bear, the price at which they can be sold, and the form of mortgage and trust deed to secure said bonds.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of October, 1914.

DECISION No. 1889.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC MILLING COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1348.

Decided October 19, 1914.

Applicant, Southern Pacific Milling Company, authorized to issue 2,500 shares of its preferred stock of the par value of $100.00 per share and 2,000 shares of its common stock of the par value of $100.00 per share, said preferred stock to be sold at not less than 92½, proceeds to be used to partially liquidate present outstanding indebtedness and the common stock issued in exchange for the property of the Salinas Valley Lumber Company, provided that said lumber company be either transferred free of encumbrances or with sufficient assets to liquidate any encumbrances at present existing.

J. M. Mannon, Jr., for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by Southern Pacific Milling Company for authority to issue 2,500 shares of preferred stock of the par value of $100.00 per share, or a total par value of $250,000.00, and 2,000 shares of its common stock of the par value of $100.00 per share, or a total par value of $200,000.00. It is proposed to sell the preferred stock at a price

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not less than $92.50 per share and to apply the proceeds toward the liquidation of the applicant's indebtedness represented by notes, in the sum of $270,000.00, of which $210,000.00 are due the Wells Fargo Nevada National Bank of San Francisco, and $60,000.00 due J. C. Coleman.

The Southern Pacific Milling Company was incorporated July 15, 1886. It conducts both a public utility business and a general business which is not of a public utility nature. Its public utility business consists of its ownership and operation of some forty-seven warehouses in Monterey, San Luis Obispo, Santa Barbara, and Ventura counties. At these warehouses the applicant takes hay, grain and produce generally for storage. The Southern Pacific Milling Company also carries on a general grain, bean, milling and merchandise business. It manufactures and deals in poultry foods, operates alfalfa mills, barley rolling mills, etc.

A group of the stockholders of Southern Pacific Milling Company own all but 122 shares of the 2,000 shares of Salinas Valley Lumber Company, a lumber corporation which operates in several of the larger cities in which Southern Pacific Milling Company also operates. The administration of the two corporations has been in the same hands. It is now proposed by Southern Pacific Milling Company to issue 2,000 shares of its common stock of a total par value of $200,000.00 in exchange for the properties of Salinas Valley Lumber Company. It is stated by the applicant that these properties of Salinas Valley Lumber Company cost $172,748.33 and have a present value of $176,262.02. At the hearing the applicant stated that $11,034.06 should be added to this sum as representing certain property which had been overlooked in the inventory.

The applicant stated that it was held to be desirable, by reason of the identity of interests, to amalgamate the two enterprises, particularly in view of the plan to issue the preferred stock.

This Commission, of course, has jurisdiction only over the affairs of this corporation in so far as it conducts a public utility business.

From figures submitted by the applicant it would appear that for the fiscal year ending May 31, 1912, approximately 37 per cent and for the year ending May 31, 1913, approximately 40 per cent of the revenue was derived from the warehouse or public utility business. The remaining revenue came from the sale of bags, twine, feed, and from the grain, bean, merchandise and collateral business of the applicant.

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The applicant submitted the following appraisals of its own properties and those of Salinas Valley Lumber Company:

	Cost	Present value
Southern Pacific Milling Company	$712,986 36	$765,505 69
Salinas Valley Lumber Company	172,748 33	176,262 02
Totals	$885,734 69	$941,767 71
The applicant submitted as the value of property overlooked in the inventory of Salinas Valley Lumber Company	11,034 06	11,034 06
Which, if added to both cost and present value, would give	$896,768 75	$952,801 77

In this valuation no deduction is made for depreciation on warehouses. The Commission has not assumed to check in detail these figures, for the reason that this Commission is concerned only with the public utility features of this enterprise. Any findings that may be made herein, therefore, will be with the reservation as to values to be placed upon the public utility properties of this applicant.

The applicant submitted in its annual reports to this Commission the following income statements for the fiscal years ending May 31, 1912, and May 31, 1913:

	1912	1913
Operating revenue	$213,862 06	$210,196 62
Operating expenses	154,857 30	160,034 62
Net operating revenue	$89,004 76	$50,162 00
Other income:		
Interest and dividend	1,046 00	1,042 00
Miscellaneous non-operating revenue	6,302 81	2,001 00
Total gross income less operating expenses	$96,353 57	$53,205 00
Deductions:		
Interest	$14,721 95	$15,708 74
Taxes	4,209 79	3,720 70
Depreciation	35,971 23	38,966 00
Total deductions	$54,902 97	$58,345 44
Net corporate income for year	$41,450 60	*$5,140 44
Surplus beginning of year	$235,577 45	$245,269 67
Add depreciation for 1912 not entered on ledger		35,971 23
Deductions for year:		
Uncollectible accounts	$274 81	
Losses by fire	4,708 57	373 07
Dividends	26,775 00	26,775 00
Surplus at close of year	245,269 67	248,952 39

*Deficit.

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Mr. Fairfax H. Wheelan, vice-president of Southern Pacific Milling Company, testified that this corporation had paid dividends uninterruptedly in the amount of 6 per cent on its outstanding capital stock since 1893, and stated that the surplus at the close of the fiscal year 1913 amounted to $248,952.39.

Applicant presented at the hearing the balance sheet as of July 1, 1914, as follows:

Resources.

Cash	$6,045 95
Merchandise	111,317 90
Office fixtures	54,133 98
Live stock and equipment	8,055 76
Real estate and improvements	508,479 64
Cleaning plants	83,518 41
Barley mills	62,082 71
Bills receivable	54,872 77
Accounts receivable	173,956 81
Stocks and bonds	17,314 50
Grain loans	14,165 68
O. B. Rem., etc.	8,868 99
Patents	6,290 00
Rents, taxes and insurance	4,752 49
Total	$1,103,855 59

Liabilities.

Capital stock	$446,250 00
Surplus funds	269,015 30
Bills payable	275,000 00
Accounts payable	64,494 49
Outstanding business	3,329 87
Collateral loans	16,792 00
Draft account	1,973 93
Total	$1,103,855 59

The applicant now has outstanding an issue of 4,462½ shares of common stock of the par value of $100.00 per share, or a total par value of $446,250.00.

Applicant has now authorized a total issue of $1,000,000.00 of stock—$250,000.00 of preferred and $750,000.00 of common. It proposes to issue the entire block of $250,000.00 of preferred stock as previously noted and to issue at this time $200,000.00 of the common, which would leave it with stock outstanding of both classes in the sum of $896,250.00. The balance will remain in its treasury.

The preferred stock which the applicant proposes to issue will call for 7 per cent cumulative dividends. Thereafter 7 per cent may be paid upon the common stock, and after such payment upon the common stock, in case other dividends are declared, the holders of the preferred stock shall participate therein with the holders of the common stock in the ratio of one dollar for each share of preferred stock issued and outstanding to two dollars for each share of common stock then issued and

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outstanding. The preferred stock will be callable at 105 per share on December 31, 1919, or on any December 31st thereafter, in whole or in part.

It is the purpose of the applicant, as expressed at the hearing, to provide that the stock, if redeemed, will be called by lot.

It was stated at the hearing by witnesses for applicant that regular dividends of 6 per cent had been paid on the stock of Salinas Valley Lumber Company; that the book value of such stock was $121.80 per share; and that the property would be transferred either free of indebtedness or with current assets more than sufficient to extinguish any existing indebtedness.

It will undoubtedly be necessary for this Commission, in determining cases now pending or which may in the future arise, to draw a sharp distinction between the public utility properties of this applicant and its other holdings. In passing upon this application, however, the Commission has in mind the enterprise as a whole, and this must be necessarily so for the reason that in the presentation no effort has been made to separate the public utility properties from those features of the business which are not of a public utility character. It may become necessary for this Commission to inquire into the value of the public utility property, and in passing upon the application herein it does not fix or determine any values whatsoever as applicable to the public utility properties of this applicant.

With this clearly understood, I recommend that this application be granted, and submit the following form of order:

ORDER.

Southern Pacific Milling Company having applied to this Commission for authority to issue 2,500 shares of its preferred stock of the par value of $100.00 per share, and for authority to issue 2,000 shares of its common stock of a par value of $100.00 per share,

And a hearing having been held and it appearing that the purposes for which applicant proposes to issue said preferred stock and said common stock are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Southern Pacific Milling Company be given authority and it is hereby given authority to issue 2,500 shares of its preferred stock, said preferred stock being 7 per cent cumulative, of the nature described in the aforesaid opinion, and more exactly as described in applicant's Exhibit "B" on file in connection with the application herein to which reference is hereby made.

It is further ordered that Southern Pacific Milling Company be given authority and it is hereby given authority to issue 2,000 shares of its common stock of the par value of $100.00 per share.

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The authority herein given is given upon the following conditions and not otherwise:

(1) Applicant shall sell its preferred stock herein authorized at a price not less than $92.50 per share.

(2) The proceeds received by applicant for the sale of its preferred stock shall be applied upon its indebtedness to Wells Fargo Nevada National Bank in the sum of $210,000.00, and to J. C. Coleman in the sum of $60,000.00, such indebtedness consisting of notes payable, a list of which is on file with this Commission as part of Exhibit "B" filed in connection with the application herein to which reference is hereby made.

(3) The common stock herein authorized to be issued shall be issued to Salinas Valley Lumber Company or the stockholders of Salinas Valley Lumber Company in exchange for the properties of the Salinas Valley Lumber Company as inventoried by applicant in its Exhibit "D" on file in connection with the application herein to which reference is hereby made.

(4) Applicant shall submit to this Commission a true copy of any contract or contracts into which it may enter with the purchasers of its preferred stock.

(5) The property of Salinas Valley Lumber Company shall be transferred to applicant either free of indebtedness or with sufficient current assets to liquidate any indebtedness owing by Salinas Valley Lumber Company.

(6) Nothing herein shall be taken as a finding of this Commission as to the value or values of all or any part of the public utility properties of this applicant.

(7) Southern Pacific Milling Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(8) The authority herein granted shall apply to such stock as shall have been issued on or before October 15, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of October, 1914.

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Decision No. 1890.

IN THE MATTER OF THE APPLICATION OF W. T. KNOX TO SELL HIS TELEPHONE SYSTEM AT KNIGHTS LANDING, YOLO COUNTY, CALIFORNIA.

Application No. 1363.

Decided October 20, 1914.

Report of the Commission.

W. T. Knox having applied to this Commission for authority to sell to J. V. Leithold, for the sum of $350.00, all of the property, comprising the telephone system owned and operated by said W. T. Knox in and about the village of Knights Landing, Yolo County, California, which place is also known as Grafton; and J. V. Leithold having joined in the application, and it appearing to the Commission that this is not a case in which a public hearing is necessary,

It is hereby ordered that this application be and the same is hereby granted.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of October, 1914.

Decision No. 1891.

IN THE MATTER OF THE APPLICATION OF SONOMA VALLEY WATER, LIGHT AND POWER COMPANY TO ISSUE BONDS OF THE FACE VALUE OF THIRTY THOUSAND DOLLARS.

Application No. 755.

Decided October 20, 1914.

Applicant, being unable to sell $30,000.00 face value of bonds previously authorized to be issued, applies for permission to pledge said bonds as security for a six-months note, bearing interest at the rate of 8 per cent per annum. Application granted, provided that applicant receive in money borrowed at least 50 per cent of the face value of bonds so pledged.

Report of the Commission.

THELEN, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

This Commission having, on September 30, 1913, made an order in this proceeding authorizing Sonoma Valley Water, Light and Power Company to issue its bonds of the face value of $30,000.00, bearing interest at the rate of 6 per cent per annum, said bonds to net applicant not less than 82½ per cent of the face value thereof, and the proceeds obtained thereby to be used for the following purposes only:

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(*a*) For the discharge of refunding of obligations of the company as follows:

Discharge of note to International Mercantile Bond Company	$5,150 00
Discharge of indebtedness for water meters	860 00
Discharge of indebtedness for boring well	280 00
Discharge of indebtedness for pumps and dynamo	560 00
Discharge of indebtedness for attorney's fees	2,150 00
Discharge of miscellaneous indebtedness	297 00
Total	$9,297 00

(*b*) For the acquisition of property and the construction, completion and extension and improvement of its facilities, including the excavation of the company's present reservoir and the lining of the same with concrete, the extension of pipe lines, the construction of an additional artesian well and the construction of a dam across Kerrigan Creek, the proceeds remaining from the sale of said bonds, after the foregoing obligations have been paid, not to exceed the sum of $18,000.00.

And Sonoma Valley Water, Light and Power Company having filed with this Commission a supplemental application, stating that applicant has so far been unable to sell any of these bonds, and asking that this Commission authorize applicant to issue these bonds as collateral for $15,000.00 which applicant has an opportunity to borrow for a period of six months at a rate of interest of eight per cent per annum, the moneys so borrowed to be used for the purposes specified in the original order; and the Commission being of the opinion that under all the circumstances of this case this application should be granted,

It is hereby ordered that Sonoma Valley Water, Light and Power Company be and it is hereby authorized to pledge its bond of the face value of $30,000.00, bearing interest at the rate of 6 per cent per annum, upon the following conditions, and not otherwise, to wit:

1. Applicant shall receive in moneys borrowed at least 50 per cent of the face value of all bonds issued as collateral therefor;

2. The moneys borrowed upon the pledge of these bonds shall be borrowed at a rate of interest not to exceed 8 per cent and for a period not exceeding six months;

3. The proceeds from the sale of said bonds shall be applied to the following purposes:

(*a*) For the discharge and refunding of the following obligations of applicant and the interest which is due thereon:

Discharge of note to International Mercantile and Bond Company	$5,150 00
Discharge of indebtedness for water meters	860 00
Discharge of indebtedness for boring well	280 00
Discharge of indebtedness for pumps and dynamo	560 00
Discharge of indebtedness for attorney's fees	2,150 00
Discharge of miscellaneous indebtedness	297 00
Total	$9,297 00

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(*b*) For the acquisition of property and the construction, completion, extension and improvement of its facilities, including the excavation of the company's present reservoir and the lining of the same with concrete, the extension of pipe lines, the construction of an additional artesian well and the construction of a dam across Kerrigan Creek, the proceeds remaining from the sale of said bonds after the foregoing obligations have been paid.

4. Sonoma Valley Water, Light and Power Company shall keep separate, true and accurate accounts showing the number of bonds issued in accordance with this order, the moneys borrowed thereby and the disposition of such moneys, and on or before the twenty-fifth day of each month shall make a verified report to this Commission stating the number of bonds pledged during the previous month, the terms and conditions upon which said bonds were pledged, the moneys realized therefor and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this second supplemental order.

5. This order shall apply only to bonds issued prior to January 1, 1915.

The foregoing second supplemental order is hereby approved and ordered filed as the second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of October, 1914.

DECISION NO. 1892.

IN THE MATTER OF THE COLLECTION BY SOUTHERN PACIFIC COMPANY OF FARES IN EXCESS OF FIVE CENTS FOR ONE CONTINUOUS RIDE IN THE SAME DIRECTION WITHIN THE CITY OF OAKLAND.

Case No. 563.

Decided October 20, 1914.

C. W. Durbrow, for Southern Pacific Company.

Guy C. Earl and *Chaffee E. Hall*, for certain Oakland residents.

REPORT OF THE COMMISSION.

The issues of this case having been passed upon and decided in Decision No. 1863, this case is hereby dismissed.

Dated at San Francisco, California, this 20th day of October, 1914.

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Decision No. 1893.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY, CONSOLIDATED, FOR AUTHORITY TO ISSUE SIX HUNDRED THOUSAND DOLLARS OF PREFERRED STOCK.

Application No. 1279.

Decided October 20, 1914.

Applicant, Northern California Power Company, authorized to issue $500,000.00 par value of its 6 per cent cumulative preferred stock, to be sold only to its present stockholders at not less than 80, proceeds to be used to reimburse applicant's treasury for moneys expended for capital purposes in the sum of $225,000.00, and $175,000.00 for additions and betterments to present system, such proposed additions and betterments to be first submitted and formally approved by the Commission; also provided, that before any of such stock may be issued applicant shall first stipulate to file an inventory of its properties with the Commission on or before December 1, 1914, and after a valuation by the Commission, if such property is found not to bear a proper relation to the bonds and debentures and a proper proportion of its preferred stock at present outstanding, an assessment will be levied upon its stockholders of an amount equal to such deficiency.

Oscar Sutro, for Applicant.

Report of the Commission.

Edgerton, *Commissioner.*

This is an application by Northern California Power Company, Consolidated, for authority to issue 5,000 shares of preferred stock of the par value of $100.00 per share, or a total par value of $500,000.00. The applicant proposes to issue its stock at $80.00 per share to its own stockholders and to use the proceeds in the sum of $400,000.00 for the purpose of reimbursing its treasury for money expended from income for capital expenditures. With the money thus returned to its treasury, the applicant proposes to meet current obligations and to pay off a note indebtedness of $175,000.00.

Northern California Power Company, Consolidated, has an outstanding issue of 100,000 shares of capital stock of the par value of $100.00 per share. It has provided for a total issue of 20,000 shares of preferred stock of the par value of $100.00, or a total par value of $2,000,000.00, and the present application is to issue 5,000 shares of its preferred stock. This stock will be 6 per cent cumulative, and will be preferred as to assets as well as to dividends.

The applicant has presented a statement in which it states that the sum of $823,017.99 was paid out of income and other moneys in the treasury, for which reimbursement is now asked.

A check of this statement and an analysis of applicant's accounts raise a very serious doubt as to many of the items which go to make up this total of $823,017.99.

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An issue of preferred stock calls into question obviously the entire condition of the property concerned—its assets, its indebtedness, its earnings and all other elements that go to make up its general financial condition.

This Commission has proceeded through the medium of an accounting investigation and this inquiry has revealed an expenditure from income for capital purposes of a sum approximating $225,000.00.

The general affairs of this company have been reviewed in previous decisions. Its presentation in the application herein shows—

A bonded indebtedness of	$5,848,000 00
In addition applicant has outstanding an issue of series A debentures in the sum of	770,200 00
And an issue of series B debentures in the sum of	500,000 00
Total debentures	$1,270,200 00
Total bonds and debentures	$7,118,200 00
Applicant lists its notes payable in the sum of	$220,198 12

It has certain accounts payable which will be more than offset by its receivables.

For the first six months of the calendar year 1914 the applicant reports earnings and expenditures as follows:

Electric Operations.				
Operating revenue	$360,710 30			
Operating expenses	144,983 44			
Net operating revenue, electric		$215,726 86		
Gas Operations.				
Operating revenue	$16,496 50			
Operating expenses	11,885 86			
Net operating revenue, gas		4,610 64		
Water Operations.				
Operating revenue	$19,470 47			
Operating expenses	14,143 25			
Net operating revenue, water		5,327 22		
Total net operating revenue			$225,664 72	
ADD.				
Non-operating revenues.				
Miscellaneous rent revenues, electric		$824 22		
Interest and dividend revenues.				
Miscellaneous interest revenues		2,357 69		
Total non-operating revenue			$3,181 91	
Gross corporate income				$228,846 63

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DEDUCT.

Interest accrued on funded debt	175,856 06
Balance carried to corporate surplus account	$52,990 57

Applicant also submits the following statement of assets and liabilities as of June 30, 1914:

ASSETS.

Fixed capital installed prior to January 1, 1913 (electric)	$9,183,263 33	
Fixed capital installed since December 31, 1912 (electric)	187,321 05	
Fixed capital installed prior to January 1, 1913 (gas)	188,768 08	
Fixed capital installed since December 31, 1912 (gas)	9,528 19	
Fixed capital installed prior to January 1, 1913 (water)	239,450 27	
Fixed capital installed since December 31, 1912 (water)	6,753 24	
Total fixed capital		$9,815,084 16
Cash and deposits		35,980 59
Notes receivable		1,925 43
Accounts receivable:		
Due from consumers	$183,625 39	
Miscellaneous accounts receivable	1,785 84	
Total accounts receivable		185,411 23
Interest and dividends receivable		116 15
Investments:		
Securities of other corporations		1,250 00
Materials and supplies		128,198 85
Sinking funds		6,894 12
Prepaid expenses:		
(*a*) Prepaid rents	$61 06	
(*b*) Prepaid taxes	761 28	
(*c*) Prepaid insurance	105 60	
Total prepaid expenses		927 94
Unamortized discount on bonds		1,638 89
Unamortized discount on capital		8,000,000 00
Other suspense		15,136 65
Construction work in progress		73,823 59
		$18,266,387 60

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LIABILITIES.

Capital stock		$10,000,000 00
Funded debt		7,098,200 00
Notes payable		220,198 12
Accounts payable:		
(*a*) Audited vouchers and wages unpaid	$103,419 04	
(*b*) Consumer's deposits	293 40	
(*c*) Miscellaneous accounts unpaid	23,752 36	
Total accounts payable		127,464 80
Interest accrued		59,063 34
Service billed in advance		407 23
Ranch rentals paid in advance		112 50
Reserve for accrued depreciation		116,046 59
Reserve invested in sinking funds		94,300 00
Suspense (ranch and federal income)		1,178 55
Surplus temporarily invested in plant		400,000 00
Corporate surplus unappropriated		149,416 47
		$18,266,387 69

The applicant herein has assumed certain liabilities in connection with its purchase of the Sacramento Valley Power Company. It appears that certain of the debentures, now amounting to $770,200.00, issued in connection with the purchase of these properties, will fall due on February 1, 1915. In lieu of the payment of these debentures for the benefit of the parties for whom they are held, applicant has the option of turning over for the benefit of these same parties its bonds on the basis of 96 per cent of their par value.

In the absence of an appraisal of these properties and in view of the amount and nature of the obligations of this applicant, I shall recommend that certain reservations and conditions should attach to any authorization that may be given for the issue of preferred stock as requested. These equities can not be determined, of course, without an appraisal nor without some understanding as to the arrangements already made or contemplated by the applicant for the payment or refunding of maturing obligations. I shall, therefore, recommend that any order herein made be made upon the condition that the present stockholders of this applicant shall supply any deficiency, if such be found to exist, between the sum of the obligations of this applicant and its preferred stock on the one hand and the value of its property, as it may be determined by this Commission, on the other hand.

As heretofore noted, a check of applicant's accounts has revealed the sum of $225,000.00 taken from income and invested in plant account. I shall, therefore, recommend that proceeds above this amount derived from the sale of preferred stock shall be used for new additions to applicant's properties.

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On these conditions I recommend that the application be granted and submit the following form of order:

ORDER.

Northern California Power Company, Consolidated, having applied to this Commission for authority to issue 5,000 shares of its 6 per cent cumulative preferred stock of the par value of $100.00 per share, or a total par value of $500,000.00; and a hearing having been held and it appearing that the purposes to which the proceeds derived from the sale of said stock may be applied in accordance with the order herein are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Northern California Power Company, Consolidated, be given authority and it is hereby given authority to issue 5,000 shares of its 6 per cent cumulative preferred stock of the par value of $100.00 per share.

The authority herein given is given upon the following conditions, and not otherwise:

1. The stock herein authorized to be sold shall be sold so as to net the applicant herein not less than $80.00 per share.

2. The stock herein authorized to be sold shall be offered and sold only to those persons or corporations who may be stockholders of this applicant.

3. The proceeds to be derived from the sale of the stock herein authorized to be issued shall be applied only to the following purposes:

(*a*) The reimbursement of applicant for moneys expended from income upon capital account, $225,000.00.

(*b*) For additions and betterments to applicant's properties, $175,000.00.

4. The proceeds derived from the stock herein authorized to be issued shall be applied to additions and betterments to applicant's properties only after a list of the proposed additions and betterments shall have been submitted to this Commission and a formal order of approval of such list of additions and betterments issued by this Commission.

5. Northern California Power Company, Consolidated, shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make cerified reports to the Comission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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6. The stock herein authorized to be issued shall be issued only after the applicant shall have filed with this Commission a stipulation duly executed by authorized officials as follows:

(*a*) That it will on or before December 1, 1914, submit to this Commission an inventory and appraisal of its properties.

(*b*) That upon order of the Commission it will levy an assessment or assessments upon the holders of applicant's stock, the purpose of such assessment or assessments being to collect from said stockholders such sum or sums as may be necessary to supply any deficiency in assets which may be found by this Commission to exist between the value of applicant's properties, as such value may be found by this Commission, and the sum of its outstanding bonded indebtedness, outstanding debentures, and such proportion of its outstanding preferred stock as this Commission shall deem to be reasonable; the purpose of this requirement being that if the valuation hereafter to be made by this Commission of applicant's properties should show that the preferred stock herein authorized were not represented by proper assets, the present stockholders of this company should supply whatever sums might be necessary to make the preferred stock herein authorized properly representative of actual assets.

7. The authority herein given is given only upon condition that the applicant herein shall file a statement with this Commission setting forth the arrangements already made or contemplated for the payment or extension of obligations falling due in the year 1915.

8. The stock herein authorized to be issued shall be issued only after the Commission shall have issued a supplemental order that the applicant has complied with all the conditions herein set out to the satisfaction of the Commission.

9. The authority herein granted shall apply to such stock as shall have been issued on or before October 15, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of October, 1914.

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DECISION No. 1894.

IN THE MATTER OF THE APPLICATION OF HOLTON POWER COMPANY TO ISSUE AND SELL FIRST AND REFUNDING MORTGAGE GOLD BONDS.

Application No. 1232.

Decided October 21, 1914.

Applicant, Holton Power Company, authorized to issue bonds of the face value of $200,000.00 to be sold at not less than 80, proceeds to be used for additions and improvements to system, provided that before applicant shall pay any dividends upon its stock the $40,000.00 discount permitted upon these bonds shall have been amortized out of surplus earnings.

W. F. Holt, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

Holton Power Company asks authority to issue $200,000.00 face value of its 6 per cent first and refunding mortgage gold bonds.

This Commission, in an order made in Application No. 49, authorized the issuance by applicant of $300,000.00 face value of bonds for the purpose of retiring a floating indebtedness which was created as a result of obtaining money for extensions and betterments.

In the proceedings in that application the financial condition of applicant was reviewed, and reference thereto is hereby made.

The proceeds from the sale of the bonds herein asked to be authorized are to be used for the purpose of making extensions and additions to the plant of applicant, made necessary by the rapid growth of the population of the territory through which it operates in Imperial Valley and the consequent demand upon it for additional service.

As illustrating the growth of its business, applicant submits statements showing an average gain of 47 per cent of gross electric revenue for the year 1913 over the preceding year and an average gain of 52 per cent this year over 1913.

Applicant asks permission to sell these bonds at not to exceed 80 per cent of face value, and I believe that this should be allowed, as it is probably impossible to obtain money under better conditions for use in the Imperial Valley. This situation was fully discussed in the order made in Application No. 49. However, if the $200,000.00 face value of bonds herein asked to be authorized are sold at 80 per cent of face value this will produce $160,000.00, leaving a margin of $40,000.00 of face of bonds over amount received from the sale thereof. Applicant offers either to amortize this $40,000.00 over the life of the

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bonds or to amortize this amount out of earnings before dividends are paid. I think the latter is the better course, and therefore recommend that such a provision be inserted in the order.

The earning statement of applicant shows its ability to carry the sinking fund and interest under its outstanding bond issue and the bonds herein asked to be authorized.

Herewith form of order granting the application:

ORDER.

Application having been made to the Railroad Commission of the State of California by Holton Power Company for an order authorizing the issue of $200,000.00 face value of its first and refunding mortgage gold bonds, dated October 1, 1911, bearing interest at the rate of 6 per cent per annum, payable semiannually on the 1st day of April and the 1st day of October of each year; and a public hearing having been held, and it appearing to the Commission that the money to be secured by the issuance of said bonds is reasonably required by applicant for the purpose of acquiring property and building and constructing additions and betterments to its plant, and that such proceeds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered by the Railroad Commission of the State of California, that Holton Power Company is hereby authorized to issue $200,000.00 face value of its first and refunding mortgage gold bonds, bearing interest at the rate of 6 per cent per annum, payable semiannually on the 1st day of April and the 1st day of October of each year and dated October 1, 1911.

Said bonds shall be issued under the terms of a mortgage and deed of trust dated October 1, 1911, executed by Holton Power Company to the Southern Trust Company, a copy of which said mortgage and deed of trust is on file in Application No. 49, reference to which is hereby made.

Holton Power Company shall sell the bonds hereby authorized so as to net said company not less than 80 per cent of the face value thereof, plus accrued interest at the date of their delivery to the purchaser.

The proceeds from the sale of said bonds shall be used for the following purposes only:

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For the purchase, construction and equipment of the following betterments and additions to plant of applicant:

Transmission line, El Centro to Seeley and Dixieland	$12,078 78
Distribution substation, Seeley	2,478 30
Distribution substation, Dixieland	2,478 30
Distribution systems, Seeley and Dixieland	7,642 50
Transmission line, Calipatria to Niland	6,634 70
Distribution substation, Calipatria	2,478 30
Distribution substation, Niland	2,478 30
Distribution systems, Calipatria and Niland	8,152 00
Additional transmission line, El Centro to Calexico	9,404 20
Additional transmission line, El Centro to Brawley	9,661 40
Transmission substation, El Centro	45,000 00
Transmission substation, Calipatria	11,768 00
Water system, El Centro	14,456 20
Ice storage house, El Centro	48,940 00
Total	$183,650 98

Provided that this order is made upon the condition that before applicant shall declare or pay any dividends on its capital stock it shall amortize out of earnings $40,000.00, which sum is the difference between the moneys received from the sale of the bonds hereinabove authorized and the face value of such bonds.

Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the bonds herein authorized to be issued, and on or before the twenty-fifth day of each month, the company shall make a verified report to the Commission, stating the sale or sales of bonds during the preceding month, the terms and conditions of such sale, the moneys derived therefrom and the use and application of such moneys, all as provided in this Commission's General Order No. 24.

This order shall not become effective until the fee prescribed in section 57 of the Public Utilities Act, as amended, shall have been paid.

The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before the 15th day of April, 1915.

Dated at San Francisco, California, this 21st day of October, 1914.

DECISION NO. 1895.

COLD BROOK CAMP COMPANY

vs.

R. C. POLLARD, ET AL.

Case No. 678.

Decided October 21, 1914.

Complainants, contending that they formerly enjoyed service over a certain telephone line operated by defendants, allege that their wire has been disconnected and accordingly petition the Commission to compel resumption of such service and to fix a proper rate therefor.

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Held, That in view of the fact that defendants have been operating their line for compensation, charging a fixed rate to complainants and all parties desiring to use same, it is a public utility subject to the jurisdiction of this Commission, that it can not arbitrarily discontinue service to complainant. Defendant directed to reconnect complainant's line and a rate of $50.00 per year established for such service.

Oliver C. Clark, for Complainant.

MacKnight & Fitzgerrell, for Defendants.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

Cold Brook Camp Company, a corporation, complains against the defendants herein, alleging that said defendants own and operate a telephone line extending from the mouth of the San Gabriel Canyon in the county of Los Angeles, to Camp Rincon, a distance of about thirteen miles from the mouth of the canyon, and a branch extending from said telephone line to Follows Camp. That plaintiff constructed a telephone line from said Camp Rincon to a public camp which it operates on the north fork of San Gabriel Canyon, a distance of eight miles from Camp Rincon. That plaintiff's line was thereupon connected with the line of defendants in the year 1913, and as compensation for the transmission of messages from plaintiff's line over defendant's line to the outside world, and in a like manner of incoming messages, plaintiff paid the agreed sum of $100.00 for said year 1913.

Plaintiff's line remained connected to the line of defendants aforesaid during the year 1913 and during the year 1914 up to the early part of September, when defendants disconnected the line of plaintiff at Camp Rincon.

Plaintiff prays that the Commission compel the defendants to reconnect its line with theirs at Camp Rincon and continue to give it the service heretofore had, and asks that the Commission fix the fee to be paid for such service.

It appears from the evidence that the telephone line with which plaintiff asks to be connected is now owned jointly by Camp Rincon Resort Company, a corporation, and R. M. Follows. The complaint should be dismissed as against the other defendants named in the complaint.

It appears from the evidence that the above allegations are substantially correct, but the defendants insist that their telephone line was built only to serve the public camps which they operate in the San Gabriel Canyon and the forks thereof; that they do not desire to continue to permit the plaintiff to connect with their line, as their line is already burdened to capacity. They contend that their line is not a public utility line, because it was built solely for the purpose of serving their camps, and that the connecting of plaintiff's line in 1913

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was only by way of accommodation and the charge of $100.00 was a rough estimate of the share plaintiff should pay in the upkeep and maintenance of the line.

It appears from the evidence that at all of these camps, including that of the plaintiff, the campers or boarders were allowed to use the telephone upon the payment of a fee, a part of which went to the telephone company connecting with the end of the defendant's line at the mouth of the San Gabriel Canyon, and a part of which went to the proprietor of the camp.

Here, then, we have a situation where not only was the line of the defendants hooked up with the line of the plaintiff and a charge made by defendants to plaintiff for such service, but we also find the defendants providing a telephone service to their boarders for which they exact a fee, a part of which fee they retain for themselves. I think this clearly establishes the defendants' line as a public utility line, and I recommend that we so hold.

This being true, I see no reason for defendants now refusing to continue a service which they had heretofore voluntarily accorded plaintiff.

I am satisfied from the evidence that plaintiff can be given the service heretofore rendered without unduly burdening the line of defendants. It may be as testified to by Mr. Follows and other witnesses for defendants, that the line of defendants should not be thrown open to all who wish to attach to it for telephone service. Mr. Follows testified that he and his associates owning the line had refused to connect a number of individual property owners along the line because this would overburden the line and render it useless and inconvenient for the use of the camp, but clearly an exception was voluntarily made in the case of the plaintiff.

The plaintiff alleges that the price of $100.00 paid for the year 1913 is excessive and that any price above $25.00 per year is excessive and the prayer is that this Commission fix the rate.

The evidence upon which to base a conclusion as to a proper charge is extremely meager, but I believe that under all the circumstances $50.00 a year would be a reasonable charge to be made by defendants to plaintiff for the service herein ordered to be given.

Herewith a proposed order:

ORDER.

Complaint having been made by Cold Brook Camp Company, a corporation, against R. C. Pollard, M. H. Daily, R. M. Follows and Camp Rincon Resort Company, a corporation, and a public hearing

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having been had and the Commission being fully apprised in the premises,

It is hereby found as a fact that the defendants, R. M. Follows and Camp Rincon Resort Company, now own and operate a telephone line extending from the mouth of the San Gabriel Canyon to Camp Rincon, and a camp operated by R. M. Follows. That plaintiff owns a telephone line extending from Cold Brook Camp to Camp Rincon, and during the years 1913 and 1914, up to the early part of September of the latter year, the telephone line of plaintiff was connected with the telephone line of said defendants at said Camp Rincon and telephone messages were delivered to, and received on, the line of said defendants from the line of said plaintiff during said time. That early in September, 1914, said defendants disconnected the line of plaintiff at Camp Rincon and have refused to again connect the same.

It is hereby further found as a fact that said defendants, R. M. Follows and Camp Rincon Resort Company, have been and now are operating said telephone line owned by them as aforesaid as a public utility telephone line, and that it is just and reasonable that the telephone line of the Cold Brook Camp Company aforesaid should again be connected at said Camp Rincon, and that said defendant should again give said plaintiff the service heretofore rendered.

It is hereby further found as a fact that a just and reasonable rate or charge for such service given by said defendant to said plaintiff is the sum of $50.00 per year.

Basing its order on the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered, by the Railroad Commission of the State of California, that R. M. Follows and Camp Rincon Resort Company do, within ten days from the date of this order, connect the telephone line of plaintiff with their telephone line at Camp Rincon and furnish the same service as has heretofore been rendered by said defendants to said plaintiff.

It is hereby further ordered that the charge to be made by said defendants to said plaintiff for such service is hereby fixed at $50.00 per year, payable in advance.

The complaint as to defendants R. C. Pollard and Dr. M. H. Daily is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of October, 1914.

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DECISION No. 1896.

RIVERS BROTHERS COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 406.

Decided October 21, 1914.

Defendant, contending that striking out the clause "for canneries and driers only" in a certain rate of fruit, voided the entire rate and that a new rate should be established for this commodity, and accordingly applies for a rehearing in the above entitled case. Application denied.

Charles Clifford, for Complainant.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

OPINION ON APPLICATION FOR REHEARING.

This is an application for rehearing by defendant, Southern Pacific Company. The contention of defendant is, that where this Commission found the restriction placed on a certain rate for fruit in the following words "for canneries and driers only" to be illegal, it could not order these words stricken out, leaving the rate to stand without the restriction, and apply it on past shipments made by plaintiff. It is contended that we must go into the question of the reasonableness of the rate which should have been charged.

I can not agree with this contention. It must be admitted that it is unfair to grant a lower rate because of the particular use to which the commodity is to be put. In fact, it is now generally conceded that this method of differentiating as to rates on given commodities is not fair and is discriminatory.

This being true, the restriction is illegal and if it is now illegal, it was illegal during all of the times mentioned in the order.

It is argued that if the restriction falls the whole rate must fall, but this contention can not be sustained. With the illegal restriction eliminated the rate is legal, and certainly justice requires that it stand, at least as to past shipments.

It is obvious that if the whole rate is declared illegal, and upon a showing of reasonableness a higher rate is fixed, the railroad might collect from the shipper who shipped to canneries and driers, the difference between the rate voluntarily established by the railroad and the rate fixed by the Commission later as reasonable.

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This would bring about the ridiculous result that in voluntarily establishing a discriminatory rate railroads would not only escape punishment for their act, but would actually profit thereby.

I recommend that the application be denied and submit herewith the following form of order:

ORDER.

Application having been made by Southern Pacific Company for a rehearing in the above entitled matter, and it appearing to the Commission that said application should be denied,

It is hereby ordered, by the Railroad Commission of the State of California, that the application for rehearing herein be and the same hereby is denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco California, this 21st day of October, 1914.

DECISION No. 1897.

L. SCATENA & COMPANY ET AL.

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 436.

Decided October 21, 1914.

Application of defendant for rehearing in the above entitled case, dismissed.

Charles Clifford, for Complainants.

E. W. Camp, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

OPINION ON APPLICATION FOR REHEARING.

This is an application for rehearing by defendant, Atchison, Topeka and Santa Fe Railway Company. The issues herein and the arguments made are to such an extent the same as those made in the application for rehearing in Case No. 406, this day denied, that I believe this case should be denied for the reasons set out in the opinion preceding the order of denial in that case.

Herewith a form of order:

ORDER.

Application having been made by Atchison, Topeka and Santa Fe Railway Company for a rehearing in the above entitled matter, and it appearing to the Commission that said application should be denied,

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It is hereby ordered, by the Railroad Commission of the State of California, that the application for rehearing herein be and the same hereby is denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of October, 1914.

DECISION No. 1898.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AUTHORITY TO RENEW A PROMISSORY NOTE IN THE SUM OF ONE HUNDRED THOUSAND DOLLARS.

Application No. 1364.

Decided October 22, 1914.

Applicant authorized to issue a note in the sum of $100,000.00 in renewal of a note of a like amount issued to the National Conduit and Cable Company.

C. P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Pacific Gas and Electric Company having made application to this Commission for authority to issue a promissory note in the sum of $100,000.00 for a period of ninety days, with interest at 6 per cent per annum, to the National Conduit and Cable Company to renew a note of like amount, with similar interest rate, to the National Conduit and Cable Company;

And a hearing having been held and it appearing that the purposes for which the applicant herein proposes to issue said note are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Pacific Gas and Electric Company be given authority and it is hereby given authority to issue a promissory note or renewals thereof in the sum of $100,000.00 to the National Conduit and Cable Company, said note or notes to bear interest at the rate of 6 per cent per annum and to be due and payable not later than October 20, 1915.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The applicant shall report within thirty days after the note herein authorized to be issued has been issued, stating in writing to

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this Commission that such note has been issued and the note to renew which it has been issued has been canceled.

(2) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of October, 1914.

DECISION No. 1899.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC RAILROAD COMPANY FOR AUTHORITY TO ISSUE FIRST REFUNDING MORTGAGE BONDS SUFFICIENT TO NET TWO MILLION, SEVEN HUNDRED AND EIGHTY-NINE THOUSAND, ONE HUNDRED AND FIFTY-THREE DOLLARS AND SEVENTY-FOUR CENTS.

Application No. 1340.

Decided October 22, 1914.

Applicant, Southern Pacific Company, authorized to issue bonds of the face value of $3,063,000.00, to be sold at not less than 91.0388, proceeds to be used to refund treasury for moneys expended for capital purposes in the sum of $2,789,153.74.

Guy Shoup, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by Southern Pacific Railroad Company and Southern Pacific Company for authority to issue first refunding mortgage bonds to yield to the applicant $2,789,153.74.

Southern Pacific Railroad Company owns 3,475 miles of railroad in the states of California, Arizona and New Mexico. These lines are operated under lease by Southern Pacific Company, which owns the capital stock of Southern Pacific Railroad Company.

The applicants state that there has been invested from income for capital purposes of Southern Pacific Railroad Company during the fourteen months ending December 31, 1912, the sum of $2,789,153.74. These expenditures are summarized by applicants as follows:

	Additions and betterments
Automatic signals	$101,286 01
Tracks	1,268,444 56
Line changes	83,259 88
Bridges	183,437 70
Buildings	294,200 67
Water stations	72,717 69
Miscellaneous	343,468 48
Right of way and station grounds	360,957 62
Total	$2,707,772 61

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Property Under Mortgage.

Additions and betterments	$2,707,772	61
Construction of new lines	7,402	97
Expenditures for account of new lines	303,057	71
Total	$3,018,233	29
Less value of material recovered, adjustments, etc.	229,079	55
Net expenditures	$2,789,153	74

The bonds which it is herein proposed to issue are part of a total authorized issue of $160,000,000.00 secured by a mortgage and deed of trust executed between Southern Pacific Railroad Company and Southern Pacific Company to the Equitable Trust Company of New York, dated January 3, 1905, this mortgage being designated "First Refunding Mortgage."

It is provided in this mortgage that the Southern Pacific Railroad Company may draw down bonds from the trustee as reimbursement for funds expended from income for specified capital purposes. It is further provided that these bonds may be drawn down for not less than the average price for which bonds of the same issue shall have been sold on the New York Stock Exchange during the previous calendar month. In determining the price at which the bonds shall be drawn down, the applicants have taken the average price at which bonds of this issue were sold on the New York Stock Exchange during the month of July, this being the last month of recorded stock exchange transactions. This price the applicants have determined to be 91.0388 per cent of par.

The bonds issued under the first refunding mortgage heretofore referred to will mature on January 1, 1955. They carry an interest rate of 4 per cent per annum and are callable after January 1, 1910, at 105 per cent of their par value. These bonds are also guaranteed by Southern Pacific Company. If drawn down at 91.0388, the interest rate on these bonds would figure approximately 4.45 per cent. It is the intention to use the bonds for the purpose of reimbursing Southern Pacific Company for advances.

At the price stated, of 91.0388, it will be necessary for the applicant to issue bonds of the face value of $3,063,000.00 to provide for the reimbursement in the full sum of $2,789,153.74.

From the evidence presented in this case, I believe the expenditures from income reported by the applicants herein were made for proper capital purposes as defined under the Public Utilities Act, and I believe the applicant, therefore, should be given authority to issue bonds in sufficient amount to reimburse it for this expenditure.

I recommend, therefore, that the application be granted and submit the following form of order:

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ORDER.

Southern Pacific Railroad Company and Southern Pacific Company having applied to this Commission for authority to issue $3,063,000.00 of first refunding mortgage bonds, and a hearing having been held, and it appearing that the purposes for which the applicants herein propose to issue said bonds are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Southern Pacific Railroad Company and Southern Pacific Company be granted authority and they are hereby granted authority to issue $3,063,000.00 of first refunding mortgage bonds under the mortgage and deed of trust between the applicants herein and the Equitable Trust Company of New York, trustee, dated January 3, 1905, a copy of which was filed in connection with the application herein, to which reference is hereby made; said bonds being guaranteed by Southern Pacific Company.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be sold so as to net the applicants herein not less than 91.0388 per cent of the par value of said bonds plus accrued interest.

(2) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

(3) The authority herein granted shall apply to such bonds as shall have been issued on or before October 20, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of October, 1914.

DECISION No. 1900.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO AND WOODLAND RAILROAD COMPANY FOR AN ORDER APPROVING CERTAIN NOTES ISSUED BY APPLICANT.

Application No. 1336.

Decided October 22, 1914.

Applicant, Sacramento and Woodland Railway Company, authorized to issue its promissory notes of the face value of $119,000.00 in lieu of notes previously issued without the Commission's consent, proceeds of which were used for purposes properly capitalizable.

T. T. C. Gregory, for Applicant.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Sacramento and Woodland Railroad Company for an order authorizing the issue of certain promissory notes.

Applicant has heretofore issued certain promissory notes without the authorization of this Commission. Upon attention being called to this situation, this application was made.

There can be no doubt that the money obtained from the issuance of these notes originally was used for corporate purposes, and that the persons holding these notes are *bona fide* creditors of applicant. Applicant is a subsidiary of Northern Electric Railway Company, now in receivership.

As set out in the opinions in Application No. 1337 and Application No. 1059, I think this application should be granted in order that the position of the creditors may be maintained.

Herewith a form of order:

ORDER.

Application having been made by Sacramento and Woodland Railroad Company for an order authorizing the issuance of certain promissory notes, and a public hearing having been had, and it appearing to the Commission that for the reasons set out in the preceding opinion said application should be granted,

It is hereby ordered by the Railroad Commission of the State of California that Sacramento and Woodland Railroad Company is hereby authorized to issue those certain promissory notes in the amounts, bearing the interest, payable to the persons, and dated, all as set out in the list on file herein marked Exhibit "A."

Said company shall keep separate, true and accurate accounts, showing the receipt and application in detail of the proceeds derived from the issuance of the notes herein authorized, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or other disposition of the notes herein authorized to be issued, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, shall have been paid.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of October, 1914.

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DECISION No. 1901.

IN THE MATTER OF THE APPLICATION OF NORTHERN ELECTRIC RAILWAY COMPANY, MARYSVILLE AND COLUSA BRANCH, FOR AN ORDER APPROVING CERTAIN NOTES ISSUED BY APPLICANT.

Application No. 1337.

Decided October 22, 1911.

Applicant, Northern Electric Railway Company, Marysville and Colusa Branch, authorized to issue notes aggregating the face value of $38,000.00 in lieu of notes previously issued without the Commission's authorization.

T. T. C. Gregory, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Northern Electric Railway Company, Marysville and Colusa Branch, for an order authorizing the issue of certain promissory notes.

Applicant has heretofore issued promissory notes without the authorization of this Commission and it is the purpose of this application to obtain an order authorizing the issuance of these notes which will maintain the creditors holding this paper in the position they would have occupied had the notes been legally issued with the authorization of this Commission.

Applicant is a subsidiary of Northern Electric Railway Company, which is in the hands of a receiver, and while I would not recommend the granting of this application if a new indebtedness were being created, I believe that it is only fair to the creditors who hold notes herein asked to be authorized that this application be granted. It appears that the money obtained from the issuance of these notes was used for corporate purposes.

Herewith a form of order:

ORDER.

Application having been made by Northern Electric Railway Company, Marysville and Colusa Branch, for an order authorizing the issuance of certain promissory notes, and a public hearing having been had, and it appearing to the Commission that for the reasons set out in the preceding opinion said application should be granted.

It is hereby ordered, by the Railroad Commission of the State of California, that Northern Electric Railway Company, Marysville and Colusa Branch, is hereby authorized to issue those certain promissory notes in the amounts, bearing the interest, payable to the persons and dated, all as set out in the list on file herein marked Exhibit "A."

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Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds derived from the issuance of the notes herein authorized, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or other disposition of the notes herein authorized to be issued, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, shall have been paid.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of October, 1914.

DECISION NO. 1902.

IN THE MATTER OF THE APPLICATION OF NORTHERN ELECTRIC RAILWAY COMPANY FOR AN ORDER APPROVING CERTAIN NOTES ISSUED BY APPLICANT.

Application No. 1059.

Decided October 22, 1914.

Applicant, Northern Electric Railway Company, authorized to issue notes aggregating the face value of $2,116,575.00 in lieu of notes previously issued without the authorization of this Commission, proceeds of which were used for purposes properly capitalizable.

T. T. C. Gregory, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Northern Electric Railway Company for an order authorizing the issue of certain promissory notes.

Applicant has heretofore issued promissory notes to a large number of persons for a large aggregate amount. These notes were issued without the authorization of this Commission, and, upon attention being called to the probable status of this paper, this application was filed. Recently a receiver has been appointed by the federal court and we may assume applicant to be insolvent. The only purpose to be served by the order herein asked to be issued is to place the creditors holding notes now invalid in the same position as they would have been had their notes been regularly issued.

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A denial of this application might work serious harm to these creditors without any resulting benefit. Applicant owes these creditors the money evidenced by these notes, and if this application were denied, these debts would become immediately payable, but these particular creditors would probably have lost the advantage of the endorsements now on these notes.

Beyond doubt, this application would be denied if it involved the creation of a new indebtedness, even though applicant were not now in the hands of a receiver. But in view of the fact that it appears the money originally obtained upon the issuance of these notes was used for corporate purposes, and that the order of this Commission may result in maintaining these creditors upon an equal standing with other creditors, I believe the application should be granted.

Herewith a form of order:

ORDER.

Application having been made by Northern Electric Railway Company for an order authorizing the issue of promissory notes, and a public hearing having been had and it appearing to the Commission that for the reasons set out in the preceding opinion said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that Northern Electric Railway Company is hereby authorized to issue those certain promissory notes in the amounts, bearing the interest, payable to the persons, and dated, all as set out in a list on file herein marked Exhibit "A."

Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds derived from the issuance of the notes herein authorized to be issued and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission in accordance with the Commission's General Order No. 24, stating the sale or other disposition of the notes herein authorized to be issued, the terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act, as amended, shall have been paid.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of October, 1914.

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Decision No. 1903.

IN THE MATTER OF THE APPLICATION OF FRESNO INTERURBAN RAILWAY COMPANY FOR AUTHORITY TO ISSUE STOCKS AND BONDS.

Application No. 1084.

Decided October 23, 1914.

Applicant, proposing to construct an electric railway between Fresno and Clovis, applied to the Commission to issue stock of the par value of $60,000.00 and bonds of the face value of $120,000.00, which amounts were authorized tentatively pending the submission of additional data permitting of a more thorough check of the various items of construction cost, and a revised list of the estimated construction cost having been filed, applicant authorized to issue bonds of the face value of $86,000.00 in addition to $24,000.00 face value heretofore authorized under supplemental order and 460 shares of its capital stock of the par value of $100.00 per share in addition to 120 shares heretofore authorized under supplemental order, said bonds to be sold at not less than 90 and stock at not less than 80; provided, that said road shall be completed before the amount allotted for promotion expenses shall have been issued, that all contracts shall be filed with the Commission and that all bonus moneys obtained under agreements executed or to be executed shall be placed to credit of applicant to help meet any deficiency in income during the first three years and if not so required, to be applied for sinking fund purposes.

J. B. Rogers, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

OPINION AND THIRD SUPPLEMENTAL ORDER.

Fresno Interurban Railway Company was incorporated for the purpose of building an electric line of railway connecting Fresno and Clovis, in Fresno County, a distance of approximately nine miles. On June 4, 1914, in the matter herein, this Commission issued a preliminary order in Decision No. 1563, authorizing Fresno Interurban Railway Company to issue $60,000.00 of stock, consisting of 600 shares of the par value of $100.00 per share, and $120,000.00 of its ten-year 6 per cent first mortgage bonds, under certain conditions therein set out. Thereafter, on July 6, 1914, in Decision No. 1650, this Commission issued a supplemental order finding that the applicant had complied with certain specified conditions; and thereafter, on October 3, 1914, in Decision No. 1838, this Commission issued a second supplemental order upon the application herein, authorizing Fresno Interurban Railway Company to issue $12,000.00 of stock and $24,000.00 of bonds, being a part of the $60,000.00 of stock and the $120,000.00 of bonds which had been authorized in the preliminary order of this Commission in its Decision No. 1563.

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The applicant was subsequently requested to file additional data, which has since been submitted. The matter is again before the Commission for final order.

The contracting firm of Mahoney Brothers, of San Francisco, has entered into a contract with Fresno Interurban Railway Company to construct the railway line between Fresno and Clovis herein referred to, at a sum not to exceed $145,000.00. Applicant has now modified its application to a request for authority to issue:

$120,000.00 in bonds at 90	$108,000 00
$46,250.00 in stock at 80 per cent of par	37,000 00
Total	$145,000 00

The applicant submitted a summary of costs which was set forth in this Commission's opinion in Decision No. 1563, to which reference is hereby made. This cost was estimated at $141,620.00. Thereafter 10 per cent was added for contingencies.

In this summary of costs appeared the item of "rights of way (100 feet), 100 acres at $300.00, $30,000."

The applicant, following a request from this Commission, has submitted the details comprising this item of $30,000.00. These details may be summarized as follows:

Promotion services.		
Mahoney Brothers	$12,069 35	
J. B. Rogers (services and promotion)	6,000 00	
Charles Teague	300 00	
J. R. Kelley	350 00	
Al. Braverman	350 00	
Total promotion		$19,069 35
Rights of way.		
Traveling expenses, estimated damages, purchase of extra width, and sundry expenditures		8,440 65
Franchises, including incidental costs.		
Fresno City	$686 00	
Fresno County	1,045 00	
Clovis	759 00	
Total		2,490 00
Total		$30,000 00

It appears further that the sum apportioned as promotion services to Mr. Rogers in the sum of $6,000.00 is intended to cover payment for actual services rendered in obtaining rights of way, etc. It appears also that Mr. Rogers is to share in the promotion fees allotted in the estimates to Mahoney Brothers.

The parties chiefly interested in the affairs of this applicant have signed bonus agreements amounting to $17,170.00. Applicant expressed the belief that bonus agreements would eventually be signed aggre-

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gating between $30,000.00 and $40,000.00. These agreements are made between Mahoney Brothers and owners of real estate along the line of applicant's railway. They provide for installment payments to Mahoney Brothers. The parties interested in these agreements have expressed the willingness that these bonuses should be held to make up any deficits that may occur in the early years of the operation of this railway. I believe that this should be done and I believe also that if any surplus remains thereafter from these bonus payments, it should be made available for the redemption of bonds which may herein be authorized.

I shall recommend that the bond and stock issue be revised to meet the revised estimate of the applicant, and believe that an issue of $110,000.00 of bonds sold at 90, yielding $99,000.00, and 580 shares of stock sold at $80.00 per share, yielding $46,400.00, making a total of $145,400.00, will be permissible under all of the circumstances.

As this Commission has already authorized the issue of $24,000.00 in bonds and $12,000.00 in stock, the present authorization will be for $86,000.00 in bonds and 460 shares of stock, these amounts making a total of $110,000.00 of bonds and $58,000.00 par value of stock.

Accordingly I recommend the following form of order:

ORDER.

Fresno Interurban Railway Company having applied to this Commission for authority to issue $120,000.00 of its ten-year 6 per cent bonds and 600 shares of its capital stock, of the par value of $100.00 per share;

And a hearing having been held, and it appearing that the purposes for which it is proposed to issue $110,000.00 of said bonds and 580 shares of said stock are not in whole or in part reasonably chargeable to operating expenses or to income;

And this Commission, in its Decision No. 1838 on the application herein, having authorized an issue of $24,000.00 of bonds and 120 shares of stock,

It is hereby ordered that Fresno Interurban Railway Company be granted authority and it is hereby granted authority to issue $86,000.00 of its ten-year 6 per cent bonds and 460 shares of its capital stock of the par value of $100.00 per share.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be issued under applicant's mortgage and deed of trust to Mercantile Trust Company of San Francisco, dated September 1, 1914, a copy of which is on file with this Commission in connection with the application herein marked "Exhibit E."

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(2) The bonds herein authorized to be issued shall be sold so as to net the applicant not less than 90 per cent of the par value thereof.

(3) The stock herein authorized to be issued shall be sold at not less than $80.00 per share, or on the basis of $80.00 per share, to the following named persons, partnerships and corporations for services rendered in the amount set opposite their names:

Mahoney Brothers	$12,069 35
J. B. Rogers	6,000 00
Charles Teague	300 00
J. R. Kelley	350 00
Al. Braverman	350 00

(4) The stock herein authorized to be issued to Mahoney Brothers, J. B. Rogers, Charles Teague, J. R. Kelley and Al. Braverman shall be issued to such parties only after the line of railway projected herein between Fresno and Clovis shall have been completed.

(5) The proceeds derived from the sale of the stock and bonds herein authorized to be issued shall be used for the construction of a line of electric railway between Fresno and Clovis, in accordance with estimates submitted by the applicant herein to this Commission as specified in the opinion in Decision No. 1563, with the exception that there shall be eliminated from said list, "right of way, $30,000.00" and "engineering, legal and contingent, $14,160.00" and there may be added to such list:

Rights of way	$8,440 65
Equipment	3,800 00
Franchises	2,490 00
J. B. Rogers, for services	6,000 00
Charles Teague, for services	300 00
J. R. Kelley, for services	350 00
Al. Braverman, for services	350 00
Promotion to Mahoney Brothers and J. B. Rogers	12,069 35
Contingencies	3,380 00

(6) The authority to issue stock to Mahoney Brothers, J. B. Rogers, Charles Teague, J. R. Kelley and Al. Braverman, under section (3) of the order herein shall be alternative of the authority herein granted under section (5) to pay said Mahoney Brothers, J. B. Rogers, Charles Teague, J. R. Kelley, and Al. Braverman in cash from the proceeds of the stock herein authorized to be issued.

(7) Copies of all contracts involving the expenditures of $1,000.00 or more, and copy of all monthly progress estimates, shall be filed with this Commission.

(8) Fresno Interurban Railway Company shall file with this Commission copies of all bonus agreements which said railway or individuals interested in said railway may hereafter execute in connection with the building of this railway.

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Said railway company shall also file with this Commission such bonus agreements as may have been signed on behalf of itself or individuals interested in said railway and not already filed with this Commission.

(9) The applicant herein shall file with this Commission copies of such detailed contracts as may hereafter be entered into with Mahoney Brothers for the construction of its line of railway.

(10) Fresno Interurban Railway shall file with this Commission any contract into which it may enter for the sale or disposition of its stocks and bonds herein authorized or heretofore authorized by this Commission.

(11) Fresno Interurban Railway shall file with this Commission a copy of such contract as it may make with any other railway for the operation of its line of railway.

(12) The authority herein granted is granted upon the condition that all moneys paid to applicant under bonus agreements heretofore executed or hereafter executed in connection with the construction of its line of railway from Fresno to Clovis shall be placed in a special fund; and on the further condition that all bonus agreements for the payment of money to Mahoney Brothers, J. B. Rogers or other parties interested in this railway, in connection with the construction of its line of railway from Fresno to Clovis shall either be assigned to the applicant herein or that the money received by said Mahoney Brothers, J. B. Rogers, or other parties interested in this railway from bonus agreements heretofore signed or which may hereafter be executed, in connection with the building of this line of railway between Fresno and Clovis, shall be paid into a special fund to be held either in escrow or in the name of this applicant.

It is further made a condition of this order that the moneys which shall be paid into the fund or funds mentioned in this section shall be used either for the purpose of making up any amount which this railway may fail to earn for the payment of its operating expenses, proper maintenance, taxes and bond interest. If, after three years, the annual earnings of applicant are sufficient to pay its operating expenses, proper maintenance, taxes and bond interest, any surplus remaining in said fund shall be held as a sinking fund for the redemption of bonds herein authorized to be issued.

(13) Fresno Interurban Railway Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds and stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds and stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and

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the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(14) The authority herein granted shall apply to such stock and to such bonds as shall have been issued on or before October 20, 1915.

(15) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

The foregoing opinion and third supplemental order are hereby approved and ordered filed as the opinion and third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of October, 1914.

DECISION No. 1904.

IN THE MATTER OF THE APPLICATION OF MT. TAMALPAIS AND MUIR WOODS RAILWAY FOR AUTHORITY TO ISSUE A NOTE IN THE SUM OF FORTY THOUSAND DOLLARS.

Application No. 1380.

Decided October 26, 1914.

Applicant authorized to execute its promissory note in the sum of $40,000.00, bearing interest at 6 per cent, said note to be in renewal of a note in a like amount now due.

Wm. Thomas, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Mt. Tamalpais and Muir Woods Railway having applied to this Commission for authority to issue a promissory note in the sum of $40,000.00 to First National Bank of San Francisco for the purpose of refunding a note in similar amount held by said bank;

And a hearing having been held and it appearing that the purposes for which it is proposed to issue said note are proper purposes under the Public Utilities Act,

It is hereby ordered that Mt. Tamalpais and Muir Woods Railway be given authority and it is hereby given authority to issue a promissory note in the sum of $40,000.00 to First National Bank of San Francisco, said note to bear interest at 6 per cent per annum and to mature not later than December 31, 1915.

The authority herein granted is granted upon the following conditions and not otherwise.

(1) The applicant herein shall, on or before November 25, 1914, report to this Commission in writing, stating the terms and conditions

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and date of maturity of such note as may be issued under the order herein.

(2) The note herein authorized to be issued shall be issued only to refund or take up an existing note issued by applicant to First National Bank of San Francisco.

(3) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of October, 1914.

Decisions Nos. 1905, 1906, grade crossings; not printed. See end of volume.

DECISION No. 1907.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE THREE-YEAR SIX PER CENT NOTES.

Application No. 1303.

Decided October 27, 1914.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SUPPLEMENTAL OPINION.

On October 6, 1914, this Commission filed its opinion and order in this proceeding authorizing Western States Gas and Electric Company to issue its three-year 6 per cent promissory notes of the face value of $731,000.00 under the terms of a trust indenture filed in this proceeding and marked "Exhibit 3." In said opinion it is recited that the notes covered by the trust indenture will be callable September 1, 1916, at 101 per cent and at any interest payment date thereafter at 100½ per cent of the principal. The opinion should have recited that the notes will be callable October 1, 1916. I call attention to this error in order that no confusion may result therefrom. No change has to be made in the order to cover this error, as the order does not recite the date at which the notes are callable.

The order fails to recite, however, the finding by the Commission that the purposes for which the notes are to be issued are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, as required by section 52(*b*) of the Public Utilities Act.

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I recommend that a supplemental order be issued amending the order already made so as to include this finding by the Commission.

SUPPLEMENTAL ORDER.

It is hereby ordered that the order heretofore made in this proceeding on October 6, 1914, be and the same is hereby amended to include the statement that, in the opinion of the Commission, the purposes for which the notes are to be issued are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in said order.

The foregoing supplemental opinion and supplemental order are hereby approved and ordered filed as the supplemental opinion and supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of October, 1914.

Decisions Nos. 1908, 1909, grade crossings; not printed. See end of volume.

DECISION No. 1910.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY FOR AUTHORITY TO ISSUE FOUR PROMISSORY NOTES AND OF THE NEVADA-CALIFORNIA POWER COMPANY TO GUARANTEE THE PAYMENT OF SAID NOTES.

Application No. 1388.

Decided October 30, 1914.

Application of the Southern Sierras Power Company to execute four notes, aggregating $20,000.00, in renewal of notes of a like amount and of the Nevada-California Power Company to guarantee the payment of same, granted.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

The Southern Sierras Power Company having applied to this Commission for authority to issue four promissory notes, each in the sum of $5,000.00, to be dated November 1, 1914, maturing March 1, 1915, with interest at 6 per cent per annum, payable to E. S. Moulton, trustee, said notes to be issued for the purpose of refunding four notes of $5,000.00 each payable to E. S. Moulton, trustee, and maturing November 1, 1914; and the Nevada-California Power Company having applied to this Commission for authority to guarantee the payment of both principal and interest of the notes which the Southern Sierras Power Company herein requests authority to issue; and it appearing that the four notes issued by the Southern Sierras Power Company in the sum

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of $5,000.00 each, which will mature on November 1, 1914, were given in part payment for the acquisition of the properties of Lytle Creek Power Company, and that the purposes for which said notes were issued were not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Southern Sierras Power Company be given authority and is hereby given authority to issue four promissory notes in the sum of $5,000.00 each to E. S. Moulton, trustee, said notes to be dated November 1, 1914, and to mature not later than November 1, 1915, and to bear interest at the rate of 6 per cent per annum.

It appearing further that the Nevada-California Power Company had guaranteed the payment, both principal and interest, of the four notes in the sum of $5,000.00 each issued by the Southern Sierras Power Company to E. S. Moulton, trustee, which will mature November 1, 1914; and it appearing further that the Nevada-California Power Company is heavily interested as a large stockholder in the Southern Sierras Power Company,

It is hereby ordered that the Nevada-California Power Company be given authority and is hereby given authority to guarantee the payment, both principal and interest, of the four notes in the sum of $5,000.00 each herein authorized to be issued by the Southern Sierras Power Company to E. S. Moulton, trustee.

The authority herein given to the Southern Sierras Power Company to issue said notes to E. S. Moulton, trustee, is given upon the following provisions and not otherwise:

(1) The notes herein authorized to be issued shall be issued only for the purpose of refunding four notes in the sum of $5,000.00 each issued by said company to E. S. Moulton, trustee, and maturing November 1, 1914.

(2) The Southern Sierras Power Company shall report to this Commission within thirty days after the issuance of the notes herein authorized to be issued, stating that said notes have been issued in accordance with the provisions of the order herein.

(3) The authority herein given is conditioned upon the payment by the applicant of the fee prescribed in the Public Utilities Act.

(4) The authority herein given shall apply to such notes as shall have been issued on or before November 15, 1914.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of October, 1914.

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DECISION No. 1911.

IN THE MATTER OF THE APPLICATION OF VALLEY PIPE LINE COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1246.

Decided October 30, 1914.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

FIRST SUPPLEMENTAL ORDER.

This Commission having issued an order on September 19, 1914, in the above entitled matter (Decision No. 1805) authorizing the applicant herein to issue 53,184 shares of capital stock of the par value of $100.00 per share, and said order having provided that, excepting 650 shares, the stock therein authorized to be issued should be issued only after this Commission had issued a supplemental order;

And it now appearing that Valley Pipe Line Company desires authority to issue 2,811¼ shares of its capital stock to replace a like amount of stock erroneously issued without a supplemental order from this Commission, on October 6, 1914;

And it appearing further that the applicant herein has received in cash $225,000.00 in payment for the 2,811¼ shares of stock which it is now proposed to issue, being at the rate of $80.00 per share,

It is hereby ordered that Valley Pipe Line Company be given authority and it is herein given authority to issue 2,811¼ shares of its capital stock of the par value of $100.00 per share.

The authority herein granted is granted subject to all of the conditions not in conflict with the order herein, enumerated in this Commission's order of September 19, 1914 (Decision No. 1805), upon this application.

The stock herein authorized to be issued shall be issued in the following amounts to the following named parties, upon the surrender by them and the cancellation of stock in similar amounts erroneously issued to the same persons and corporations, on or about October 6, 1914:

1 share to J. C. Van Eck.
1 share to John Lawson.
1 share to B. D. Adamson.
2,806¼ shares to Anglo-Saxon Petroleum Company, Ltd.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of October, 1914.

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Decisions Nos. 1912, 1913, grade crossings; not printed. See end of volume.

DECISION No. 1914.

EDWIN A. COLBY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 408.

Decided November 5, 1914.

Complaint having been made alleging discrimination as regards the rates of defendant company for monthly commutation service between various points in Southern California and the city of Los Angeles and defendant having been directed to eliminate such discrimination, which it proposed to do by increasing the lower rate to a parity with the higher one, which action does not appear justified, and no evidence being introduced warranting the reduction of the higher rate, previous order vacated without prejudice to its reconsideration along broader lines.

C. W. Durbrow and *Geo. D. Squires*, for Defendant.

Edwin A. Colby, in propria persona.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

On the complaint of Edwin A. Colby against Southern Pacific Company and after a hearing, this Commission found that the charge made by said company of a daily $3.00 passenger fare from Los Angeles to Redlands and return, with stopover and baggage privileges, and a failure of defendant to provide passenger transportation at the low fare from Redlands to Los Angeles and return, was unjust and discriminatory, and basing its order on this finding, the Southern Pacific Company was ordered to remove this discrimination.

Thereafter, the Southern Pacific Company filed an application with the Commission for permission to remove this discrimination by cancelling the lower Los Angeles to Redlands round trip rate. Also the Atchison, Topeka and Santa Fe Railway Company and the San Pedro, Los Angeles and Salt Lake Railroad Company filed with the Commission requests for permission to withdraw and cancel similar round trips from Los Angeles to various Southern California points and return.

Southern Pacific Company also filed an application for rehearing in this case, which application was set down for argument and for the presentation of such further evidence as either of the parties desired.

At the time set for this argument both parties appeared and announced that they had no further evidence to introduce or argument to make. Subsequent to the filing of the application by the three rail-

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roads as above mentioned, a hearing was had thereon in Los Angeles, and at this hearing representatives of the chamber of commerce and boards of trade of the various towns affected by the proposed withdrawal of the Los Angeles round trip rate appeared and strongly urged that these rates be not disturbed. They insisted that these rates were established after conference with the representatives of the various communities affected, and that there was no substantial objection to the maintenance of a lower round trip fare from Los Angeles to these various towns and return than was accorded from these various towns to Los Angeles and return.

The situation that now confronts us is this: Colby in his complaint stood wholly on the claim of discrimination. He neither alleged nor proved anything with relation to the reasonableness of any of these rates. Therefore, the Commission could not in its order direct the railroads to put in effect a lower rate from Redlands to Los Angeles and return, but was confined to directing that the railroad company remove the discrimination. This left it with the railroad to elect how it would remove the discrimination, and it elected to remove it by withdrawing the lower rate. The other railroads being similarly situated, did not wait for any formal action of the Commission, but desiring to remain on the same basis as the Southern Pacific, filed applications to withdraw their low round trip rates.

I am still unconvinced of the wisdom or justice of maintaining a lower round trip rate from Los Angeles to Southern California points and return than from these points to Los Angeles and return, but the pleading and the evidence in the *Colby* case do not put this Commission in a position to pass upon the reasonableness of these rates and to establish rates which it might consider proper.

Hence, I recommend that the order heretofore made in the case of *Edwin A. Colby* vs. *Southern Pacific Company* be dismissed without prejudice to this matter being brought before the Commission upon a broader and more comprehensive basis, and I further recommend that the applications made by the three railroads to withdraw present round trip rates be also dismissed.

I submit herewith the following form of order:

ORDER.

An order having been heretofore made herein, and a petition for rehearing having been filed by Southern Pacific Company, and opportunity having been given for argument and presentation of further evidence on said petition, and it appearing to the Commission for the reasons set out in the foregoing opinion that said order heretofore made should be annulled and cancelled,

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It is hereby ordered, by the Railroad Commission of the State of California, that the order heretofore made herein on the 16th day of October, 1913, be and the same is hereby annulled and cancelled.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of November, 1914.

DECISION No. 1915.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY UNDER SECTION 63 OF THE PUBLIC UTILITIES ACT TO CANCEL ITS EIGHT-DAY ROUND TRIP FARES FROM LOS ANGELES AND PASADENA TO CHINO, COLTON, NAROD, ONTARIO, POMONA, RIVERSIDE, REDLANDS, SAN BERNARDINO, ANAHEIM, BLOOMINGTON, SANTA ANA, AND WEST ORANGE, AND RETURN.

Application No. 854.

Decided November 5, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

In accordance with the opinion and order made on November 5, 1914, in Case No. 408, *Edwin A. Colby* vs. *Southern Pacific Company,*

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 5th day of November, 1914.

DECISION No. 1916.

IN THE MATTER OF THE APPLICATION OF THE SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR AUTHORITY TO CANCEL ITS EIGHT-DAY ROUND TRIP FARES FROM LOS ANGELES AND PASADENA TO POMONA, NAROD, ONTARIO, RIVERSIDE, COLTON, SAN BERNARDINO, AND REDLANDS, CALIFORNIA, AND RETURN.

Application No. 852.

Decided November 5, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

In accordance with the opinion and order made on November 5, 1914, in Case No. 408, *Edwin A. Colby* vs. *Southern Pacific Company,*

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It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 5th day of November, 1914.

DECISION No. 1917.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (COAST LINES), FOR AUTHORITY TO CANCEL ITS EIGHT-DAY ROUND TRIP FARES FROM LOS ANGELES, PASADENA, SOUTH PASADENA, RAYMOND AND LOS ROBLES TO NORTH POMONA, UPLAND, RIVERSIDE, SAN BERNARDINO, CORONA, COLTON, REDLANDS, ORANGE, SANTA ANA, AND ANAHEIM, AND RETURN, ALSO ITS SATURDAY TO MONDAY ROUND TRIP FARE OF THREE DOLLARS AND FORTY CENTS FROM REDLANDS TO LOS ANGELES AND RETURN.

Application No. 853.

Decided November 5, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

In accordance with the opinion and order made on November 5, 1914, in Case No. 408, *Edwin A. Colby* vs. *Southern Pacific Company*,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 5th day of November, 1914.

DECISION No. 1918.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES OF THE TOTAL FACE VALUE OF THIRTY-TWO THOUSAND DOLLARS.

Application No. 1378.

Decided November 5, 1914.

Applicant authorized to issue its promissory notes, aggregating the sum of $32,000.00, in renewal of notes of a like amount now outstanding.

Leavy & Leavy, for Applicant.

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REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for authority to issue three promissory notes as follows:

1. Note for $8,000.00, payable to Southern Trust and Savings Bank of San Diego, California, or order, to be dated as of the date of this order and to be payable on or before six months after date, with interest at the rate of 7 per cent per annum.

2. Note for $3,000.00, payable to Southern Trust and Savings Bank of San Diego, California, or order, to be dated as of the date of this order and to be payable on or before six months after date, with interest at the rate of 7 per cent per annum.

3. Note for $21,000.00, payable to Merchants National Bank of San Diego, California, or order, payable one day after date, with interest at the rate of 7 per cent per annum.

The first two notes hereinbefore referred to are to be issued for the purpose of taking up notes in the same amounts, payable to the same payee, and the third note is to be issued for the purpose of taking up two existing notes, one in the sum of $10,000.00 and one in the sum of $11,000.00, payable to the order of Merchants National Bank of San Diego, both of these notes being one day notes.

The existing notes in each case bear interest at the rate of 6 per cent, but the banks are unwilling to renew the loans unless the interest is increased to 7 per cent. The proceeds from the notes now existing or their predecessors were used for purposes which are properly chargeable to capital account. Under all of the facts of the case, I recommend that the application be granted.

I submit herewith the following form of order:

ORDER.

Los Angeles and San Diego Beach Railway Company having applied to the Railroad Commission for an order authorizing the issue of three (3) promissory notes, as hereinafter indicated, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which the proceeds of the notes to be refunded were issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Los Angeles and San Diego Beach Railway Company be and the same is hereby authorized to issue its promissory notes as follows:

1. Promissory note payable to Southern Trust and Savings Bank of San Diego, California, or order, on or before six months after date of this order, in the sum of eight thousand dollars ($8,000.00), with

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interest at the rate of seven (7) per cent per annum, for the purpose of taking up existing note in the same amount, payable to the same payee.

2. Promissory note payable to Southern Trust and Savings Bank of San Diego, California, or order, on or before six months after date of this order, in the sum of three thousand dollars ($3,000.00), with interest at the rate of seven (7) per cent per annum, for the purpose of taking up existing note in the same amount, payable to the same payee.

3. Promissory note payable to the order of Merchants National Bank of San Diego, one day after date, in the sum of twenty-one thousand dollars ($21,000.00), with interest at the rate of seven (7) per cent per annum, for the purpose of taking up two outstanding promissory notes, payable to the same payee, and in the sums of ten thousand dollars ($10,000.00) and eleven thousand dollars ($11,000.00), respectively.

The authority hereby given is subject to the following conditions:

(*a*) The promissory notes hereby authorized shall be issued only at their full face value.

(*b*) Los Angeles and San Diego Beach Railway Company may, without further order from the Railroad Commission, issue renewal or renewals of the notes hereby authorized to be issued, provided that the rate of interest shall not exceed seven (7) per cent per annum and that the combined term of the note or notes hereby authorized to be issued and the renewals thereof shall not exceed one year.

(*c*) Los Angeles and San Diego Beach Railway Company shall report to the Railroad Commission within ten (10) days after the issue of any note hereby authorized to be issued, the fact of the issue, the terms and conditions thereof, and the disposition of the proceeds.

(*d*) The authority given to issue promissory notes shall apply only to such promissory notes as may be issued prior to November 1, 1915.

(*e*) The authority hereby given to issue promissory notes shall not become effective until Los Angeles and San Diego Beach Railway Company has paid the fee specified by section 57, as amended, of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of November, 1914.

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DECISION NO. 1919.

CITY OF COALINGA

vs.

COALINGA GAS AND POWER COMPANY.

Case No. 624.

Decided November 5, 1914.

Complainant, city of Coalinga, alleges that the rates of defendant company for gas service in said city are unjust and petitions the Commission to fix reasonable rates therefor, and after investigation it appearing that gas consumption in this city has greatly fallen off during the last few years, effected principally by a marked decrease in population, and also in view of the fact that at present the company is receiving not more than 7 per cent upon its investment, with considerable prospect of a decrease of this amount in the near future, complaint dismissed.

Henry S. Richmond, city attorney, for City of Coalinga.
George W. Satchell, for Coalinga Gas and Power Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

The complaint in this case was filed by the city of Coalinga by direction of its board of trustees, and asks that the rates for gas supplied within the city limits by the defendant be reduced.

The complaint alleges, in part, that the defendant has established and is now collecting the following rates for gas supplied within the city of Coalinga: $2.00 per thousand cubic feet for consumers using less than 5,000 cubic feet per month, and $1.75 per thousand cubic feet for consumers using more than 5,000 cubic feet per month, each of these rates being subject to a discount of 25 cents per thousand cubic feet if paid before the fifteenth day of the ensuing month. These rates are subject to a minimum charge of $1.00 per month. The complaint alleges that these rates are excessive and unreasonable, and asks that the Railroad Commission establish a rate of $1.00 per thousand cubic feet, with a minimum rate of $1.00 per month.

The answer denies that defendant's rates are excessive or unreasonable; alleges that the population of Coalinga is decreasing and that defendant's revenues are falling off; alleges that the introduction of natural gas on April 20, 1914, has materially reduced defendant's revenues and that a decrease of gas rates under existing conditions would make it practically impossible for defendant to continue its business and to meet its liabilities. Defendant asks that the complaint be dismissed.

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A public hearing in this case was held in Coalinga on September 1, 1914. The case was submitted on that day with the understanding that the facts shown in defendant's records, which were placed at the disposal of the Commission, might be considered in evidence in this case.

Coalinga Gas and Power Company was incorporated under the laws of California on April 26, 1909. It is engaged in the supply of gas for heating purposes, and, to a slight extent, for illuminating purposes in the city of Coalinga, Fresno County, California. The company supplied artificial gas to its patrons until April 20, 1914, since which date, with slight interruptions, defendant has been supplying its customers entirely with natural gas secured from a natural gas well located in the oil fields near Coalinga. Defendant's generating plant contains two gas generators, with the necessary accessories, and one 30,000 cubic foot gas holder. Under normal conditions, only one generator set is used, the other being held in reserve for use while the first is being repaired. The distribution system consists of mains in the town of Coalinga, ranging from a diameter of two inches to six inches.

This case presents special features which distinguish it from any other case which this Commission has as yet been called upon to decide. The most important of these features is the fact that the population of Coalinga has been materially reduced in the last two years, and that the number of defendant's customers has diminished and the amount of gas consumed by its remaining customers has also decreased. While it may well be that the setback which the city of Coalinga has received is temporary, there is no prospect of an immediate resumption of its former more flourishing condition, and the decision in this case must be rendered on the assumption that defendant will not be able to increase its business, but that it will probably suffer further losses in the immediate future.

Defendant has an authorized issue of 50,000 shares of capital stock, of the par value of $1.00 each. Although defendant's annual report for the year ending December 31, 1913, states that 46,738⅔ shares are outstanding, an examination of defendant's records fails to reveal any amount in excess of 46,438⅓ shares. The stock has been sold at prices

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varying from 34 cents to $1.00 per share, as appears from the following table:

TABLE No. 1.
Proceeds from Capital Stock.

	Shares	Cash realized
Issued to directors at 34 cents	$27,500 00	$9,300 00
Issued to directors at par	500 00	500 00
Issued to two directors for franchise	2,000 00	500 00
Issued to sundry subscribers at 75 cents	13,328 35	9,996 25
Issued to sundry subscribers at par	3,000 00	3,000 00
Issued to manager for part of salary	110 00	110 00
Totals	$46,438 35	$23,406 25

The estimate of cash received for defendant's franchise is based on testimony to the effect that this stock was issued to two directors in payment for legal advice, advertising and cost of franchise amounting to less than $500.00.

Assuming that 10 per cent interest is allowed on moneys which were paid in for capital stock from time to time and that deductions are made for the dividend of $2,336.91 which was paid in 1913 and the dividend of $1,402.15 which was paid in 1914, the stock would represent a value of $33,767.34. The two dividends referred to are the only dividends which have ever been paid. All other surplus earnings have been reinvested in the property.

The following table shows the moneys actually invested in capital account, as shown by the books of the defendant, between September 1, 1909, and the present time:

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TABLE No. 2.

Capital Account of the Coalinga Gas and Power Company, by Years, from 1909 to August 31, 1914.

Item No.	Item description	Fixed capital as of December 31, 1909	Additions, 1910	Fixed capital as of December 31, 1910	Additions, 1911	Fixed capital as of December 31, 1911	Additions, 1912	Fixed capital as of December 31, 1912	Additions, 1913
C-5	Real estate production	$1,250 00		$1,250 00		$1,250 00		$1,250 00	
C-7	Gas plant buildings and general stations	2,207 91		2,207 91		2,207 91		2,207 91	
C-8	Holders	4,620 74		4,620 74		4,620 74		4,620 74	
C-9	Furnaces, boilers	1,238 32		1,238 32	$88 16	1,326 48		1,326 48	$226 73
C-10	Gas generators	5,750 67		5,750 67		5,750 67	$3,116 67	8,867 34	
C-11	Purifying apparatus	105 39	$95 73	201 12		201 12		201 12	
C-12	Steam engines	1,525 62	700 47	2,226 09		2,226 09		2,226 09	
C-13	Gas engines				342 46	342 46		342 46	
C-14	Miscellaneous general plant equipment	1,118 95	148 00	1,266 95	53 57	1,320 52		1,320 52	23 64
C-16	Accessory equipment								
C-17	Miscellaneous production equipment	2,000 00	430 33	2,430 33	244 50	2,674 83		2,674 83	
	Total production capital	$18,567 60	$1,374 53	$19,942 13	$728 69	$20,670 82	$3,116 67	$23,787 49	$250 37
C-22	Distribution mains	$3,408 67	$113 79	$8,522 46	$1,651 33	$10,173 79	$518 62	$10,692 41	$82 45
C-23	Distribution services	1,474 70	377 50	1,852 20	50	1,852 70	3 00	1,855 70	14 67
C-24	Distribution meters	1,472 61	481 73		777 84		355 57		165 27
	Deduct replaced meters		*100 00*	1,854 31	*100 00*	2,532 18	*100 00*	2,787 75	*100 00*
	Total distribution capital	$11,355 98	$873 02	$12,229 00	$2,329 67	$14,558 67	$777 19	$15,335 86	$162 39
C-31	General office equipment	$318 00	$250 00	$568 00		$568 00		$568 00	$277 07
	Residence at plant	834 20		834 20		834 20		834 20	
	Franchise estimated	500 00		500 00		500 00		500 00	
	Organization	161 00		161 00		161 00		161 00	
	Material and supplies	750 00		750 00		750 00		750 00	
	Tools	150 00		150 00		150 00		150 00	
	Working capital	1,400 00		1,400 00		1,400 00		1,400 00	
	Total general capital	$4,113 20	$250 00	$4,363 20		$4,363 20		$4,363 20	$277 07
	Total capital	$35,286 78	$2,497 55	$37,784 33	$3,058 36	$40,842 69	$3,893 86	$44,236 55	$689 83

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TABLE No. 2—Continued.

Item No.	Item description	Fixed capital as of December 31, 1913	Additions, 1914	Fixed capital as of August 31, 1914	
C-5	Real estate production	$1,250 00		$1,250 00	
C-7	Gas plant buildings and general stations	2,207 91	$172 53	2,380 44	$750 of land value is considered operative.
C-8	Holders	4,620 74		4,620 74	
C-9	Furnaces, boilers	1,553 21		1,553 21	
C-10	Gas generators	8,867 34		8,867 34	
C-11	Purifying apparatus	201 12		201 12	
C-12	Steam engines	2,226 09		2,226 09	
C-13	Gas engines	342 46		342 96	
C-14	Miscellaneous general plant equipment	1,344 16		1,344 16	
C-16	Accessory equipment				
C-17	Miscellaneous production equipment	2,674 83		2,674 83	This item includes $2,000 engineering and supervision.
	Total production capital	$24,037 86	$172 53	$24,210 39	This does not include real estate.
C-22	Distribution mains	$10,774 86	$11 50	$10,786 36	
C-23	Distribution services	1,870 37	6 43	1,876 80	
C-24	Distribution meters				
	Deduct replaced meters	2,853 02	*90 00*	2,853 02	Note: Meters to the value of $490 have been lost, broken or stolen.
	Total distribution capital	$15,498 25	*$72 07*	$15,426 18	
C-31	General office equipment	$845 07		$845 07	
	Residence at plant	834 20		834 20	This house is "non-operative," being rented.
	Franchise estimated	500 00		500 00	This value covers approximate cost of franchise and legal advice.
	Organization	161 00		161 00	Incurred in organization but now written off by company.
	Material and supplies	750 00		750 00	Approximate average value of appliance and supplies kept on hand.
	Tools	150 00		150 00	Value of tools kept on hand. Total cost of tools for five years, $96.02.
	Working capital	1,400 00		1,400 00	Approximate average working capital.
	Total general capital	$4,640 27		$4,640 27	
	Total capital	$45,426 38	$100 46	$45,526 84	

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By subtracting from the foregoing total of $45,425.62 as of December 31, 1913, estimated accrued depreciation amounting to $3,722.04, a total of $41,703.58 is secured as representing the estimated depreciated reproduction value of that portion of the property which was used and useful in the public service. A promissory note of $4,500.00 is outstanding.

The following table shows in summary form the cost of gas sold by Coalinga Gas and Power Company during 1913:

TABLE No. 3.

Cost of Gas Sold by Coalinga Gas and Power Company during 1913.

	Fixed charges	Operating expense	Taxes	Total	Per 1,000 feet accounted for
Production	$3,408 62	$8,387 91	$594 21	$12,390 74	$1.021
Distribution	1,612 33	216 30	104 50	1,933 13	.160
Service	830 54	3,933 13	239 05	5,002 72	.412
Totals	$5,851 49	$12,537 34	$937 76	$19,326 59	$1.593

In the foregoing table, interest on the investment is allowed at the rate of 10 per cent per annum, 1 per cent of the net revenue is allowed for federal tax, and 4.6 per cent of the gross revenue is allowed to cover state taxes. Depreciation is computed on the sinking fund basis at 6 per cent. The depreciation fund has been invested in the plant, and consequently is drawing interest at the rate of 10 per cent instead of 6 per cent. The higher rate of depreciation here used is allowed to amortize the capital, owing to the decrease in business resulting from the decrease of Coalinga's population.

The following table shows, in summary form, an estimate of the cost of service for the year 1914, based on the assumption that artificial gas would be supplied during the entire year and that the amount of gas decreases in the same ratio in which it decreased during the first

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months of 1914, during which time artificial gas was still being supplied by defendant:

TABLE No. 5.

Cost of Service for Artificial Gas for 1914.

	Demand	Output	Service	Total
Production:				
Interest, depreciation and maintenance	$3,392 71			$3,392 71
Fuel oil		$2,880 00		2,880 00
Operating labor and expense		4,260 00		4,260 00
Taxes	171 57	361 50		533 07
Total production	$3,564 28	$7,500 50		$11,065 78
Distribution:				
Interest, depreciation and maintenance	$1,562 48		$773 85	$2,336 33
Operating expenses		$324 00	3,069 00	3,393 00
Taxes	86 26	17 88	191 08	295 22
Total distribution	$1,648 94	$341 88	$4,033 93	$6,024 55
Total cost	$5,213 02	$7,843 38	$4,033 93	$17,090 33

The average cost per 1,000 cubic feet sold during 1914, on the basis of a total cost of $17,090.33, is $1.81 per 1,000 cubic feet sold.

Under the existing rates, defendant received an average return on each 1,000 cubic feet sold during 1913, amounting to $1.645, this sum being secured by dividing the total operating revenue of $20,092.26 by the total amount of gas sold, which amounted to 12,201,400 cubic feet.

It thus appears that the actual cost of gas to defendant in the year 1913, amounting to $1.593 per 1,000 cubic feet, allowing 10 per cent interest, was some 5 cents per 1,000 cubic feet less than the revenue received, but that on the basis of a continued use of artificial gas and a continued decline in the business, ascertained from the drawing of a curve based on the business of the first few months of 1914, the estimated revenue per 1,000 cubic feet would be .165 less than the actual cost of the service, provided that 10 per cent return is allowed. Under the estimates for 1914, the return on defendant's investment would be 7.1 per cent if the existing rates are retained.

The situation is complicated by the fact that on April 20, 1914, defendant ceased to deliver artificial gas and undertook to deliver natural gas to its customers in Coalinga. The natural gas has a heating value of approximately 1,000 British thermal units per cubic foot, whereas the artificial gas had a calorific value not in excess of 600 British thermal units. Disregarding the effect of the minimum payment required, the substitution of natural gas for artificial gas effected a reduction of practically 40 per cent in the rates charged. It is un-

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certain whether the supply of natural gas will hold out, and it is necessary for defendant to hold its artificial plant in readiness to serve its customers in case there should be a cessation of the supply of natural gas. Careful computations on the basis of a continued use of natural gas show that defendant would derive therefrom a return not in excess of 7.6 per cent upon the investment.

The average number of consumers of defendant during the first four months of 1914 as compared with the corresponding period of 1912 shows a decrease of approximately 7 per cent. During the same period the sales of gas have decreased about 28 per cent, thus showing clearly the effect of the falling off in the purchasing power of defendant's patrons, a condition much more serious for an operating company than the mere loss of certain of its customers. During the first four months of 1912 the average sales per customer were 3,007 cubic feet, while during the same period in 1914 the average sales were only 2,339 cubic feet. The introduction of natural gas, with its higher calorific value, further decreased the amount of gas consumed, so that whereas during the second four months in 1912 the average monthly consumption per patron was 2,112 cubic feet, the consumption for the corresponding period in 1914 was reduced to 1,099 cubic feet.

When defendant constructed its plant, Coalinga was a growing community of perhaps 3,500 or 4,000 inhabitants. At the present time the population is less than 2,800 and is continuing to decrease. This condition is due partly to the world wide financial stringency and partly to decrease in activity in the oil fields on which Coalinga is largely dependent.

Under these circumstances, and in view particularly of the possible further decrease in defendant's business before conditions can improve in Coalinga, I consider that it would be unwise to attempt a revision of defendant's rates at the present time, and I accordingly recommend that the complaint be dismissed. This conclusion is based in part on the assumption that defendant continues to pay for natural gas the amount heretofore agreed to be paid. If this amount is decreased, a reduction in the rate charged by defendant may be in order.

Before finally leaving this subject, however, I desire to draw attention to the large percentage of loss in gas reported by defendant, amounting to slightly over 50 per cent during August, 1914. While it is not unusual for large losses to occur immediately after the introduction of natural gas in lieu of artificial gas, these losses should rapidly be reduced to not over 15 per cent under normal operating conditions. I desire particularly to draw defendant's attention to its large losses and to say that there is serious doubt as to whether defendant is justified in continuing to pay a salary of $1,500.00 per year to a super-

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intendent unless the losses in distribution are reduced at least 50 per cent in the near future. Both the prices paid for oil and the efficiency of the gas generating plant are open to question.

While it appears that in past years defendant has earned somewhat more than 10 per cent upon the investment, its earnings at the present time, as hereinbefore shown, are but little in excess of 7 per cent, and I am convinced that the fair-mindedness of the people of Coalinga is such as to lead them to conclude that under existing conditions, a return of 7 per cent on defendant's investment is not unreasonable.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled complaint, and the case having been submitted, and careful consideration having been given thereto, and the Railroad Commission finding as a fact that the existing rates charged by defendant for gas supplied to its customers in the city of Coalinga are not excessive or unreasonable, in view of the conditions now prevailing in the city of Coalinga,

It is hereby ordered that said complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of November, 1914.

DECISION No. 1920.

BALDWIN PARK DOMESTIC WATER COMPANY, S. M. WALKER, PROPRIETOR,

vs.

UNION TRUST AND SAVINGS BANK OF PASADENA, ADMINISTRATOR OF THE ESTATE OF A. W. DICKINSON, DECEASED, BALDWIN PARK WATER COMPANY, AND D. J. SCHULTIS.

Case No. 664.

Decided November 5, 1914.

Complainant alleges that defendants are engaged in the construction of a water system without having first secured the necessary certificate authorizing such construction from this Commission, and it appearing that the system under construction is to be operated as a mutual concern, over which class of water distributing companies this Commission has no jurisdiction, complaint dismissed.

D. M. Hunsaker, for Baldwin Park Domestic Water Company.

C. J. Willett and *A. C. Allen*, for Union Trust and Savings Bank of Pasadena.

F. W. Smith, for Baldwin Park Water Company.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

Plaintiff is a public utility water company furnishing water for domestic purposes, operating under a franchise granted by the supervisors of Los Angeles County.

It complains against the defendants herein on the ground that Union Trust and Savings Bank of Pasadena has constructed, and proposes to operate, a water system in the district now served by plaintiff, without first having obtained a franchise therefor, or the authorization of this Commission, and that Baldwin Park Water Company, a corporation, proposes to furnish its co-defendant with water, said defendants not having obtained a certificate of public convenience and necessity from this Commission.

It must first be determined whether defendants are public utilities or are operating or propose to operate a public utility water plant.

Obviously this Commission has no authority to prevent the construction or operation of a mutually owned water plant operated at cost, even though this plant be installed in the territory served by a public utility water plant.

The facts as developed by the evidence are as follows: Union Trust and Savings Bank of Pasadena, as administrator of the estate of A. W. Dickinson, deceased, has subdivided a tract of land. Plaintiff's water system is adjacent to this land and could serve it with water. Application was made to plaintiff some time ago for such service, but there was a disagreement as to the cost of installing the necessary connecting pipes, and thereupon the trust company built a distributing system in this Dickinson tract and erected a tank. The trust company held a considerable number of the shares of stock of Baldwin Park Water Company, a mutual concern, and it was, and is, proposed to convey the tank and the distributing system and this stock to the purchasers of land in the tract, and thereafter the purchasers of the land or lots will pay the Baldwin Park Water Company whatever assessment may be levied against the stock for the cost of operating and maintaining the system.

No argument is necessary to show that none of the defendants are public utilities within the meaning of the Public Utilities Act.

I recommend that this complaint be dismissed and submit herewith the following form of order:

ORDER.

Complaint having been made by Baldwin Park Domestic Water Company, S. M. Walker proprietor, against Union Trust and Savings Bank of Pasadena, administrator of the estate of A. W. Dickinson, deceased,

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Baldwin Park Water Company, a corporation, and D. J. Schultis, and a public hearing having been duly held and the Commission being fully advised,

It is hereby ordered, by the Railroad Commission of the State of California, that the complaint herein be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of November, 1914.

DECISION NO. 1921.

IN THE MATTER OF THE APPLICATION OF VALLEY PIPE LINE COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1246.

Decided November 5, 1914.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

This Commission, by supplemental order on October 30, 1914, having authorized the applicant herein to issue 2,811¼ shares of its capital stock to replace a like amount of stock erroneously issued, without a supplemental order from this Commission, and said order having specified the persons or corporations to whom 2,809¼ shares only of said stock should be issued;

And it appearing further that the applicant herein has received in cash $225,000.00 in payment for said 2,811¼ shares of stock, certain of said shares having been sold at par, or $100.00 per share, and none of said stock having been sold at less than $80.00 per share,

It is hereby ordered that Valley Pipe Line Company be given authority and it is hereby given authority to issue one share of stock to W. Meishke-Smith and one share of stock to H. R. Gallagher.

The stock herein authorized to be issued shall be issued upon the surrender of one share of stock by W. Meishke-Smith and one share of stock by H. R. Gallagher, and the cancellation thereof, being stock erroneously issued on or about October 6, 1914.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of November, 1914.

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DECISION No. 1922.

COLD BROOK CAMP COMPANY

vs.

R. C. POLLARD ET AL.

Case No. 678.

Decided November 6, 1914.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

OPINION ON APPLICATION FOR REHEARING.

Defendant herein has filed an application for rehearing, but there is no offer to produce new or additional evidence, and the grounds relied upon are largely jurisdictional and were considered in the opinion heretofore rendered.

I therefore recommend that this application for rehearing be denied.

Herewith a form of order:

ORDER.

Application having been made by R. C. Pollard et al., defendants, for a rehearing in the above entitled matter, and it appearing to the Commission that said application should be denied,

It is hereby ordered, by the Railroad Commission of the State of California, that the application of R. C. Pollard et al., for a rehearing in the above entitled matter, be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of November, 1914.

Decision No. 1923, grade crossing; not printed. See end of volume.

DECISION No. 1924.

IN THE MATTER OF CONSTRUCTING STREET CROSSINGS AT GRADE OVER THE TRACKS OF PACIFIC ELECTRIC RAILWAY AT CHESTNUT STREET AND SEVENTH STREET, IN THE CITY OF GLENDALE, LOS ANGELES COUNTY, CALIFORNIA.

Case No. 680.

Decided November 6, 1914.

The city of Glendale having previously made application to the Commission for permission to construct several streets across the tracks of the Pacific Electric Railway Company in said city, which application was denied, and additional

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evidence having subsequently been offered tending to establish the fact that such crossings are necessary to the convenience and necessity of residents of this city, the city of Glendale granted permission to construct Seventh and Chestnut streets across the tracks of Pacific Electric Railway Company at grade.

W. E. Evans and *Frank Muhleman*, for City of Glendale.
Frank Karr, for Pacific Electric Railway Company.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

On June 6, 1914, the board of trustees of the city of Glendale filed an application with the Commission for permission to construct Seventh street and Chestnut street, in the city of Glendale, at grade over the tracks of Pacific Electric Railway Company. On June 26, 1914, a hearing was held and later an order was entered denying the application. Upon representation thereafter, from the city of Glendale, that they had further evidence which they wished to introduce, the Commission, on September 18, 1914, instituted on its own motion an investigation into the matter, and on October 6, 1914, a public hearing was held in Los Angeles.

While the decision in this case is different than that arrived at in Application No. 1172, it should be remembered that the matter was more fully presented in this case than in the other and hence the different conclusion.

The Pacific Electric Railway runs through the city of Glendale in a north and south direction, and south of Sixth street it operates over a forty-foot private right of way, on each side of which is Brand boulevard, which is forty feet wide from the line of the Pacific Electric's right of way to the opposite side of the street. The streets crossed by the Pacific Electric Railway Company in this vicinity are streets which were laid out when this subdivision was thrown open some time before the Pacific Electric's entrance into Glendale and before the city was incorporated. The forty-foot strip of private right of way originally extended from Sixth street north, but recently this private right of way has been thrown open and become a part of the street.

From Sixth street south the streets now open and those which the city wishes to open, in their order, from the north, are Sixth street, Seventh street, Lomita avenue, Chestnut street and Maple street. The distance between Sixth and Seventh streets is 295 feet; between Seventh and Lomita, 292 feet; between Lomita and Chestnut, 350 feet, and between Chestnut and Maple, 350 feet.

It is the contention of the city that since Sixth, Lomita and Maple streets were opened, the city has increased largely in population, and Seventh and Chestnut streets should now be opened to serve the con-

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venience of the residents of this district, and that the drivers of vehicles, especially delivery wagons, are put to considerable inconvenience by having these streets closed. It contends further that property on these two streets is not as valuable as it would be with the streets opened across the tracks, and that the territory north of Maple and south of Sixth street is the natural place for future business extension to take place, and that these crossings are needed to bring this about.

On the other hand, the Pacific Electric asserts that the time has not yet arrived when public need requires these crossings; that each additional crossing adds to the hazard of operation and the liability to accident, and that each additional crossing tends to decrease the speed of operation, with consequent inconvenience to all who use its service. It has still another ground for objection. As previously stated, Brand boulevard parallels and is on both sides of its right of way. It has been the company's experience that in many places where a similar condition has prevailed it has first, as an abutting property owner, been compelled to pay a proportion of the cost of paving the streets on both sides of its property; has next, with the growth of the community, been deprived of its property when it has been taken as part of the street, and has finally been compelled to stand not only the expense of paving over its tracks and to a certain distance outside of them, as well as a part of the remaining portion of the street, but also of lowering those tracks when the grades of the streets and of the tracks fail to coincide. When the right of way becomes part of the street the company has, of course, an easement to operate over it, but the courts have held that since its use was not diminished it was entitled to no damages for the right of way of which it had been deprived. All this means the expenditure of considerable money, with no increase of earnings. In this particular case the grade of Brand boulevard is from eighteen inches to two feet lower than the grade of the tracks, and the Pacific Electric fears that grading down its tracks to the grade of the street will be a further item of expense to the company if these crossings are granted.

The section of Glendale in which these streets are located is immediately south of the business portion of the town, and by a recent ordinance the trustees have placed such building restriction on the territory north of Maple and south of Sixth street that it can probably be developed only by buildings erected for business purposes. One block north of Seventh street the right of way has been recently taken for street purposes and become part of Brand boulevard, and with the growth of Glendale it is a question of but a short time until the same thing will be done with the right of way as far south as Maple.

The evidence shows that the lack of crossings was the cause of inconvenience to the people living on these two streets and in the neigh-

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borhood, and particularly to drivers of delivery wagons and other vehicles who have business in this section of the town.

The agitation for the opening of these two streets dates back to 1910, when the population was considerably less than it is now, and these are the only streets along the boulevard not open across the tracks.

I believe that the city has sustained its contentions that public convenience requires the opening of these streets and that they are needed to bring about the development of this section into a business district, but the question remains as to whether the objections of the Pacific Electric are important enough to offset this need. There is no question but what each additional grade crossing carries with it a certain amount of hazard. I find, however, that if these two crossings are opened that a good view of the tracks in both directions can be had by drivers of vehicles and that the speed operation of trains is not high. Lomita avenue, a crossing now open between these two streets, has been free from accidents for five years, and I believe that these crossings will be reasonably safe.

If the Glendale line extended many miles beyond Glendale and carried many people from beyond the city to and from Los Angeles, there would be considerable force to the argument that the installation of these crossings would inconvenience the traveling public, but I find that this condition does not exist. This line runs but a few miles beyond the city and the small delay caused by the slowing down of cars over these two crossings will be negligible in its effect on passengers living beyond these points.

The Commission's action in this case is taken under section 43 of the Public Utilities Act, which gives the Commission power to determine and prescribe the manner and the particular point of crossing, and this is not the proper place to consider the question of compensation for rights of way taken or damages sustained. I am satisfied that this Commission will have the opportunity under its wide powers to prevent injustice being done this railroad where its property has been taken from it for little or no compensation.

On the whole I believe that the need of the city of Glendale for these crossings, to serve public convenience and necessity, is great enough to offset any objections which have been or can be raised against their construction, and I am of the opinion that satisfactory crossings can be made at the present grade of the Pacific Electric tracks.

I recommend the following form of order:

ORDER.

The Commission having instituted this case for the purpose of investigating the grade crossing situation over the tracks of the Pacific Electric Railway Company on Brand boulevard, at Seventh and Chest-

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nut streets, and a public hearing having been held, and it appearing to the Commission that for the reasons set forth in the opinion that the city of Glendale should be permitted to construct Seventh street and Chestnut street at grade across the tracks of the Pacific Electric Railway Company.

It is hereby ordered that city of Glendale be and the same hereby is granted permission to construct Seventh and Chestnut streets at grade across the tracks of Pacific Electric Railway Company, subject to the following conditions, viz:

1. The crossings shall be constructed to conform to the grade of Pacific Electric Railway Company, as now established, with grades of approach not exceeding six (6) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

2. The entire expense of constructing the crossings shall be borne by the city.

3. The expense of maintaining the crossings on each side of the track and up to two (2) feet thereof shall be borne by the city.

4. The entire expense of maintaining the crossing over the track and to a distance of two (2) feet outside of the rails shall be borne by Pacific Electric Railway Company.

5. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of November, 1914.

DECISION No. 1925.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA STREET CABLE RAILROAD COMPANY FOR AUTHORITY TO ISSUE BONDS.

Application No. 1381.

Decided November 6, 1914.

Applicant, California Street Cable Railroad Company, authorized to issue its 6 per cent serial bonds of the face value of $384,000.00, to be sold at not less than 99 or exchanged bond for bond for an issue in a like sum due January 1, 1915.

Allen G. Wright, for Applicant.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by California Street Cable Railroad Company for authority to issue $384,000.00 of first mortgage 6 per cent serial bonds for the purpose of refunding an outstanding issue of bonds. The bonds which the applicant proposes to issue will mature annually in blocks ranging from $24,000.00, due in January, 1916, to $46,000.00, due on January 1, 1927.

California Street Cable Railroad Company was incorporated July 21, 1884. It has an authorized issue of $1,000,000.00 of bonds, of which $900,000.00 were sold. Through the operation of sinking fund the company will have retired $468,000.00 of these bonds by January 1, 1915. Applicant has outstanding an issue of 10,000 shares of capital stock of the par value of $100.00 per share, or a total par value of $1,000,000.00.

Applicant's property consists of certain real estate, street railway franchises, railroad tracks and equipment, rolling stock, machinery, securities, etc. The applicant reports that it operates approximately eleven miles of street railway within the city of San Francisco, described as follows:

"A cable road consisting of a double track line running on California street west from about 100 feet east of Drumm street to a point on California street about 200 feet west of Presidio avenue; and a double track line running from Grant avenue and O'Farrell street west on O'Farrell street to Jones street, thence north on Jones street to Pine street, thence west on Pine street to Hyde street, and thence north on Hyde street to Beach street; and a double track line on Jones street, running thereon from McAllister street north to O'Farrell street and connecting with the tracks of applicant there located."

The applicant reports that it operates under the following franchises:

(*a*) Ordinance No. 1292, approved June 14, 1876, and amended by Ordinance No. 1302, which extended the term of the franchise granted by Ordinance No. 1292 from twenty-five to fifty years from February 17, 1879.

(*b*) Ordinance No. 1489, approved February 21, 1879, and amended by Ordinance No. 1538, extending term of franchise granted by Ordinance No. 1489 from twenty-five to fifty years from February 17, 1879.

(*c*) Ordinance No. 2058, approved May 3, 1889, and granted for a term of forty years.

(*d*) Ordinance No. 2175, passed over mayor's objections by board of supervisors on March 3, 1890. This franchise expires in 1929.

It appears, therefore, that the franchises under which applicant operates mature in 1929. The bonds which the applicant proposes to

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issue will have matured two years earlier, the last series of these bonds falling due in 1927.

Applicant estimates the cost and present value of its property, exclusive of cash on hand and securities owned, at $1,715,349.86. This Commission has made no appraisal of the applicant's properties, such appraisal not being deemed necessary for the purposes of the present application. It is very clear that there is a very wide margin between the value of its properties and the amount of bonds which it is herein proposed to issue.

In its annual report for the year ending June 30, 1914, California Street Cable Railroad Company reports assets and liabilities as follows:

Assets:

Cost of road	$1,383,441 33
Cost of equipment	113,876 79
Funded debt owned	163,484 75
Lands owned	212,314 38
Cash and current assets	53,547 94
Sinking and other special funds	456,450 61
Capital stock, uncollected balance	400,000 00
Funded debt in treasury	100,000 00
Sinking funds, advance	18,000 00
Total	$2,901,115 80

Liabilities:

Common capital stock	$1,000,000 00
Funded debt	1,000,000 00
Current liabilities	13,156 63
Interest on funded debt not due	22,500 00
Reserves	563,995 11
Surplus	301,464 06
Total	$2,901,115 80

For the year ended June 30, 1914, the applicant presents the following statement of earnings and expenses:

Operating revenue	$461,605 32	
Operating expenses	243,326 72	
Net operating revenue		$218,278 60
Other income		4,600 00
Gross income less operating expenses		$222,878 60
Deductions:		
Taxes	$29,061 91	
Interest	45,000 00	
Total deductions		$74,061 91
Net income		$148,816 69

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Disposition of Net Income:		
Reserve for construction	$30,727 00	
Reserve for sinking fund	36,000 00	
Dividends 8.2 per cent	82,000 00	
Total		$148,727 00
Surplus for the year		$89 69
Surplus beginning of year		301,374 37
Surplus close of year		$301,464 06

The applicant reports that it has at the present time in its sinking fund securities and cash amounting to $467,850.61. Applicant further reports that it will have in its sinking fund on January 1, 1915, $468,000.00 of its bonds and $48,000.00 in cash, making a total of $516,000.00. Applicant will apply this money toward the payment of the issue of $900,000.00 of bonds, which will mature on January 1, 1915, leaving $384,000.00 of bonds to be otherwise paid. It is for the purpose of paying off these maturing bonds in the sum of $384,000.00 that applicant now proposes to issue its first mortgage 6 per cent serial bonds in the sum of $384,000.00. These bonds will either be sold at par or such discount as may be necessary will be made up by applicant from funds on hand.

The proposed issue of $384,000.00 of bonds will be subject to call on payment of a 5 per cent premium within five years from the date of said bonds and upon payment of a 3 per cent premium at any time after five years from the date of the said bonds. A sinking fund will be provided to pay off the bonds, which will mature as follows:

$24,000.00 on January 1, 1916.
$25,000.00 on January 1, 1917.
$26,000.00 on January 1, 1918.
$27,000.00 on January 1, 1919.
$29,000.00 on January 1, 1920.
$30,000.00 on January 1, 1921.
$32,000.00 on January 1, 1922.
$33,000.00 on January 1, 1923.
$36,000.00 on January 1, 1924.
$37,000.00 on January 1, 1925.
$39,000.00 on January 1, 1926.
$46,000.00 on January 1, 1927.

Applicant has made no definite contract for the sale of its bonds, but its secretary expressed the belief that the securities could be sold at a price not less than 99 per cent of their face value.

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The applicant proposes to issue its bonds under a mortgage and deed of trust to Union Trust Company of San Francisco, to be dated in November, 1914.

It is clear from the above recital of facts that this applicant possesses sufficient assets and sufficient earnings to warrant the authorization herein requested. I therefore recommend that the application be granted and submit the following form of order:

ORDER.

California Street Cable Railroad Company having applied to this Commission for authority to issue $384,000.00 of first mortgage 6 per cent serial bonds as described in the foregoing opinion for the purpose of refunding outstanding bonds,

And a hearing having been held and it appearing that the purposes for which the applicant herein proposes to issue said bonds are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that California Street Cable Railroad Company be given authority and it is hereby given authority to issue $384,000.00 of first mortgage 6 per cent serial bonds under the terms of its proposed mortgage and deed of trust to Union Trust Company of San Francisco, a copy of which has been filed with this Commission in connection with the application herein and marked "Exhibit 5" to which reference is hereby made.

The authority herein given is given upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be used for the purpose of refunding $384,000.00 of applicant's bonds, maturing January 1, 1915.

(2) The bonds herein authorized to be issued shall be sold at a price which shall net the applicant not less than 99 per cent of face value, plus accrued interest, or may be exchanged bond for bond for $384,000.00 of applicant's bonds maturing on January 1, 1915.

(3) California Street Cable Railroad Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale or exchange of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales or exchanges of said bonds during the preceding month, the terms and conditions of the sale or exchange, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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(4) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

(5) The authority herein granted shall apply to such bonds as shall have been issued on or before November 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of November, 1914.

Decision No. 1926.

IN THE MATTER OF THE APPLICATION OF MIRADERO WATER COMPANY TO SELL CERTAIN PROPERTY TO THE CITY OF GLENDALE.

Application No. 1392.

Decided November 6, 1914.

Report of the Commission.

Miradero Water Company having applied to this Commission for authority to sell to the city of Glendale for the sum of $20,531.96 certain public utility water properties in accordance with a deed and bill of sale executed by and between Miradero Water Company and the city of Glendale on October 1, 1914, and attached to the application in this procedure and marked "Exhibit B," the property to be transferred being described in detail in "Schedule A" attached to said deed, as follows:

The easterly one (1) acre of block ninety-seven (97) of the subdivision of Rancho Providencia and Scott Tract, in the county of Los Angeles, State of California, as per map recorded in book 43, page 47, *et seq.*, Miscellaneous Records of said county.

Excepting therefrom that portion thereof described as follows:

Beginning at the most southerly corner of said block; thence northeasterly along the southeasterly line of said block to the most easterly corner thereof; thence northwesterly along the northerly line of said block one hundred (100) feet; thence southwesterly one hundred thirty-two (132) feet to the place of beginning; subject to right of way as reserved in deed recorded in book 778, page 91 of Deeds.

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PUMP, ETC.

Material	Size	Quantity
Screw casing	7⅝″	6,325
Riveted steel	8″	8,740
Standard screw	2″	1,550
Gates	8″	6
Gates	2″	8
Gates	¾″	6
Gates	1″	2
Meters	2″	3
Meters	1″	2
Meters	⅝ x ¾″	7

MACHINERY.

1—14x12 L-D-G power compressor, No. 15255.
1—9x12 Class "B" Atlas Automatic Engine, No. 19117.
1—Air tank 24″x6′ with pressure gauge and relief valve.
16—1″ foundation bolts, hex. nuts, 36″ long, for 12 and 17x8½x15 Worthington pump.
6—¾″ foundation bolts, hex. nuts, 36″ long, for 9 B 9x12 Atlas engine.
6—1″ foundation bolts, hex. nuts, 36″ long, for 14x12 Cincinnati air compressor.
1—Worthington boiler feed pump 4½x2¾x4, No. 151579.
1—Worthington feed water heater with brass tubes, 35′ surface.
1—Hammel oil burner, 100 horsepower.
1—Worthington duplex oil pump 3x2¾x3, No. 149721.
3—Sight feed lubricators.
1—Worthington compound duplex outside packed plunger pump 12 and 17x8½x15, for a water pressure of 200 lbs. per sq. in., No. 116136.
1—Atlas high pressure tubular boiler 66″x16′, 100 horsepower, with full plain front, stack and all trimmings as listed, No. 23834-2.
All as per contract dated May 8, 1902.
1—4 horsepower boiler.
1—Steam lubricator.
1—Compressor oil cup.
8—Oil cups.
4—Grease cups.
1—Pressure gauge.
1—Steam gauge.
1—Large steam gauge.
4—¾″ valves.
4—1½″ valves.
2—2″ valves.
1—2″ check valve.
1—2″ stop cock.
4—1″ globe valves.
2—½″ valves.
Cement floor.
Concrete walls for building.
Four windows, sash complete.
One sliding door.
Roof complete.
Compressor base of concrete.
Engine base of concrete.
Compound base of concrete.
Boiler enclosure of brick building; everything except the boiler.
Main concrete basin outside building.
Settling tank, concrete.
Derrick.

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MATERIALS AND TOOLS ON HAND.

3 Valve springs.
1 Compressor valve.
1 Thread tap.
2 Alligator wrenches.
2 Monkey wrenches.
2 Pinch bars.
1 Idler.
7 Packing hooks.
1 Belt (42 ft. x 8 in.).
2 Pump followers.
4 Crescent belt plates.
5 Gauge glasses.
4 Cold chisels.
1 24 inch pipe wrench.
1 2 in. globe valve.
1 6 in. gate valve.
21 Valve plates.
14 Rubber valves.
12 Valve stems.
9 Valve seats.
1 End wrench for pump.
48 ft. x 1¼" hose.
1 Belt stretcher.
1 pair clippers.
65 Fire bricks.
2 Files.
1 Small air gauge.
3 ⅜" valves.
1 6" pressure gate.
2 4" pressure gates.
1 3" pressure gate.
Electric wiring.
2 oil tanks—capacity 12,500.
1 14" well, 510 ft. deep.
1 10" well, 240 ft. deep.
460 ft. suction pipe.
80 ft. discharge pipe.
Installation cost.
Railroad switch.

All located north and east of the city of Glendale in the county of Los Angeles, State of California, and constituting the balance of the water system of the Miradero Water Company.

And it appearing to the Commission that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby ordered that this application be and the same is hereby granted.

By order of the Railroad Commission.

Dated at San Francisco, California, this 6th day of November, 1914.

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DECISION No. 1927.

W. S. JUNKIN
vs.
PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 466.

Decided November 7, 1914.

Complainant alleges that defendant company, operating an electric transmission and distributing system, does not properly protect its heavy transmission mains, operating same without fuses or automatic circuit breakers, thereby greatly endangering life and property. After investigation it is found that though this company has taken considerable steps to safeguard their employees and the public certain additional steps should be taken to properly protect their high power transmission lines. Defendant given thirty days in which to submit, for the approval of the Commission, plans for the installation of such additional safety devices. Commission's electrical engineer is also directed to further investigate the subject complained of, with a view to requiring all utilities of this nature to comply with such reasonable safety requirements as may be deemed necessary.

C. P. Cutten, for Pacific Gas and Electric Company.
Henry B. Lister, for W. S. Junkin.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This complaint was filed for the purpose of compelling the defendant to install circuit breakers of the over load release type on all transmission lines operated by the defendant company in the State of California.

The complainant alleges, in effect, that the defendant operates all its sixty thousand (60,000) volt lines without fuses, circuit breakers or other automatic devices for breaking the circuit in case of ground or short circuit thereon. That said lines are liable to fall, due to electric causes, and in falling come in contact with other wires or objects, thereby becoming a menace to life and property. That the principal danger arises from the fact that defendant has heretofore neglected to install the proper station protective devices and that such protective devices would minimize if not entirely eliminate the danger; further, that the practice of defendant's operators is to test into faulty lines in order to burn trouble clear and that said practice is hazardous to the public.

The defendant thereafter filed its answer denying most of the material allegations of the complainant. The defendant denies that it maintains all its sixty thousand (60,000) volt lines without any devices which would protect life and property in case of breakage or short circuit, and states that it uses circuit breakers and fuses where feasible; that

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its lines are not liable to fall, due to shorts, and are not liable by falling to become a menace or create danger to life or property. That it employs the most competent engineers to construct, operate and maintain its high tension lines; that said lines are maintained in a safe, proper and efficient manner, and that very few accidents causing injury to persons or property have resulted from the operation, construction and maintenance of its lines.

The answer further states that the installation of circuit breakers on its transmission lines would not reduce the danger to a minimum; that it would be impossible to operate its system or give adequate service if it should be compelled to so install automatic circuit breakers; that the danger is not increased by hand operated switches; that operators test lines to determine if trouble remains, and denies that this or any other of its practices are negligent or extremely or at all dangerous to the public.

The first hearing in this case was held in San Francisco on December 22, 1913. At this time the complainant did not appear but was represented by counsel. Little evidence was presented by either complainant or defendant relative to the complaint or the allegations therein and the case was therefore adjourned until such time as the Commission should make an investigation of the matter. On April 7, 1914, the second hearing was held, at which time the report of the Commission's engineers was presented, and several of defendant's station operators appeared at the request of the Commission and testified regarding the methods of operation of defendant's lines. Neither the complainant nor his attorney was present at this hearing. However, the points at issue, affecting as they do the protection of the public, are considered sufficiently important to justify careful consideration by the Commission, notwithstanding the apparent indifference on the part of complainant.

From the evidence presented, it appears that the defendant company operates its sixty thousand (60,000) volt transmission systems without automatic circuit breakers on its transmission lines at its hydroelectric generating plants and at the majority of its switching stations, except on certain station transformers and certain branch circuits; that it is the practice of the company's station operators to test lines to determine the location of faults; and that lines are sometimes energized after it is evident to the operator that such lines are short circuited or grounded.

It further appears that the defendant company's transmission lines are subject to damage and failure due to various causes and in case of failure to become a menace to persons and property; that the extent of the hazard is increased where such lines fall on other electric conductors, such as telephone, telegraph and signal circuits, secondary wires and metallic fences; that injuries and death to persons and

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damage to property have resulted either from contact with transmission lines or with other conductors in contact therewith; that the hazard is greater on primary distribution circuits than on transmission lines, and that a greater number of deaths were caused by contact with lines and apparatus in normal operation than by those in abnormal conditions.

The defendant reported that thirty-nine (39) deaths have occurred on its electric system during the years of 1910-1913 inclusive—eleven (11) on transmission lines; seventeen (17) on distribution lines and eleven (11) in stations. Thirty-two (32) persons were killed due to electric contact with the normal apparatus on lines and seven (7) by contact with lines in abnormal condition. In three (3) cases death might have been prevented by station protective devices, though conclusive evidence was not obtainable. One of these cases occurred on a transmission line.

The number of deaths occurring on eleven (11) other electric companies' systems shows that the hazard is approximately the same on all systems and that the installation of circuit breakers has no marked effect on the number of deaths or extent of the hazard.

Approximately 80 per cent of all fatalities reported were due to accidental contact with normal circuits. Of the persons so electrocuted 60 per cent were employees working on or near live apparatus. After consideration of above statistics it seems advisable that the Commission issue a general order prescribing safety rules for the handling of electrical lines and equipment.

More or less interference with telephone and telegraph circuits occurs due to induction from power lines, but as this matter is covered by the Commission's General Order No. 39 it will not be considered herein.

The greater number of cases of line failure resulting in hazard to life and property could not apparently be prevented by station protective devices but could in many instances be prevented by more careful construction and maintenance of such lines. It is, therefore, considered advisable to this Commission to investigate further the construction and maintenance of all power, telephone, telegraph and signal lines as well as the operation of such lines. For the reason that further investigation appears necessary, several phases of the matter in question will not be covered by this decision.

It appears that the public safety is subjected to considerable additional hazard if line trouble is not immediately evident to operators of stations which are not equipped with automatic devices to break the circuit in cases of short circuit or ground on such lines, and it is obvious that in the absence of proper indicating devices lines may be maintained alive in a condition which menaces life and property.

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From the evidence it appears that under defendant's methods of operation, operators of hydroelectric plants are instructed to feed at least as far as the nearest switching station and to energize such lines up to the capacity of the plant for a sufficient time after trouble is apparent to permit of trouble being located and separated at switching station. When it becomes evident to operators of hydroelectric plants that ground or short circuit exists on lines between his plant and the nearest switching station he immediately separates such circuits.

Considerable danger arises when high tension lines come in contact with other wire lines on metallic fences. In the case of the latter the danger may be minimized by properly sectionalizing and grounding fences where subject to possible contact with lines of dangerous potential.

In view of the great importance of the matter under consideration I would strongly recommend that the Commission's electrical engineer be directed to investigate fully the entire subject of physical hazard due to the construction, operation and maintenance of electric lines and apparatus of dangerous potential with a view to recommending such protective measures as may appear necessary to minimize the existing hazard to life and property.

I am of the opinion, however, that, while defendant company is entitled to just recognition for its efforts to reduce the hazards referred to, certain additional protective measures may reasonably be adopted pending the result of further investigation by the Commission, and I therefore submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the matter being submitted for the consideration of the Commission,

It is hereby ordered that the defendant shall submit to the Commission within thirty (30) days from the date of this order:

(1) A plan for equipping its generating plants and transmission switching stations where an operator is in regular attendance in such a manner and with such instruments or apparatus as will indicate to the operator at all times the voltage between each wire and ground of all high tension circuits connected to the station fuses or feeding through the station.

(2) A plan for equipping all distribution circuits of a potential in excess of 750 volts between conductors or between one conductor and ground at the source of power supply with fuses or oil switches which shall be rendered automatic for short circuits and grounds.

(3) A plan for sectionalizing and grounding all metallic fences subject to possible contact with its power lines of dangerous potential with a view to minimizing the danger to persons or property resulting from such contact; and

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It is hereby further ordered that the Commission's electrical engineer be and he is hereby directed to fully investigate the matter of physical hazard due to the construction, operation and maintenance of electric lines and apparatus of dangerous potential and to report to the Commission the result of such investigation as set forth in the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of November, 1914.

DECISION No. 1928.

MONTEBELLO CHAMBER OF COMMERCE

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, ET AL.

Case No. 559.

Decided November 7, 1914.

Above named complainant attacks the reasonableness of the rates of The Pacific Telephone and Telegraph Company applicable to the town of Montebello and also petitions the Commission to compel one of the two telephone companies occupying both sides of Whittier boulevard to remove their lines so as to permit the Pacific Light and Power Company to extend its electrical distributing system into said town without interfering with telephone service.

Held, That the present complaint is not the proper method of obtaining electrical service; that complainant should petition the Commission to compel the electric company to extend service, in which action consideration will be given to such matters. Complaint dismissed without prejudice to further consideration as outlined. Complaint as to rates withdrawn at hearing.

M. P. Hopkins, for Complainant.

Arthur Wright, for United States Long Distance Telephone and Telegraph Company.

James T. Shaw, and *John G. Mott*, for The Pacific Telephone and Telegraph Company.

S. H. Haskins, for Pacific Light and Power Corporation.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is a complaint against the rates charged for telephone service by The Pacific Telephone and Telegraph Company to residents of the unincorporated territory called Montebello, which is situated on Whit-

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tier boulevard, about half way between the cities of Los Angeles and Whittier.

The Pacific Telephone and Telegraph Company and Home Telephone and Telegraph Company are also complained against on the ground that one of said companies occupies the north side of Whittier boulevard, a main thoroughfare through said Montebello, and the other company occupies the south side of said boulevard. That as a result, Pacific Light and Power Corporation refuses to run lines along said Whittier boulevard because electric power or lighting wires strung in close proximity to the telephone lines would disturb telephone service.

We are asked to compel said telephone companies to vacate one side of Whittier boulevard for one and one half miles west of Montebello and for one mile east thereof.

At the hearing the complaint against the rates of The Pacific Telephone and Telegraph Company was dismissed. This leaves for consideration only the matter of the location of the telephone lines along each side of Whittier boulevard.

I think this complaint should be dismissed. Even assuming that this Commission had the power to compel one of these telephone companies to remove its telephone poles and wires from one side of Whittier boulevard this complaint does not present the matter so that an adjudication can be had by the Commission of the propriety or equity of compelling this to be done.

Even if complainant could prove the allegation that Pacific Light and Power Corporation had refused and is refusing to extend its lines down Whittier boulevard because of a fear that it would interfere with telephone service, this by no means proves that its refusal is justified or its fears warranted.

The complaint and prayer proceed upon an assumption that Pacific Light and Power Corporation is justified in its refusal to extend along Whittier boulevard, and that the only remedy open to plaintiff is the removal of one of the telephone lines to the other side of the boulevard. We can not indulge in these assumptions. It may be that there would be no interference with telephone service if an extension of the power corporation's line is made along this boulevard, or it may be that some less drastic remedy is possible than the removal of the telephone lines and poles.

If plaintiff is desirous of obtaining electric lighting service from Pacific Light and Power Corporation, the proper method to pursue is to demand such service of this corporation and, if it refuses, to apply to this Commission for an order compelling service to be given. Thereupon, full consideration can be had of the whole question, involving the duty of this corporation to give this lighting service and to make the

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extension requested, any possible interference with the telephone service if the extension is made, and the proper basis upon which the service should be given if it be determined that plaintiff is entitled to the extension.

I recommend for the foregoing reasons that the complaint be dismissed without prejudice to proceeding as above suggested.

Herewith a form of order:

ORDER.

Complaint having been made by Montebello Chamber of Commerce against The Pacific Telephone and Telegraph Company, a corporation, and United States Long Distance Telephone and Telegraph Company, a corporation, and a hearing having been had and the Commission being fully advised,

It is hereby ordered, by the Railroad Commission of the State of California, that for the reasons set out in the foregoing opinion the complaint herein be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of November, 1914.

DECISION No. 1929.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE, SELL AND DELIVER TO THE AMOUNT OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS ITS BONDS BEARING INTEREST AT THE RATE OF FIVE PER CENT PER ANNUM, DUE NOVEMBER 1, 1939, WHICH BONDS ARE TO BE ISSUED UNDER AND SECURED BY TRUST INDENTURE DATED NOVEMBER 1, 1909, EXECUTED BY SOUTHERN CALIFORNIA EDISON COMPANY TO HARRIS TRUST AND SAVINGS BANK, TRUSTEE.

Application No. 350.

Decided November 10, 1914.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

SEVENTH SUPPLEMENTAL OPINION.

Applicant was on the 27th day of January, 1913, authorized to issue $2,500,000.00 face value of its bonds, the proceeds thereof to be used for certain specified purposes.

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The minimum price to be obtained by applicant on the sale of said bonds was fixed in an order supplemental to the original order at 87½ per cent of face value plus accrued interest. That under said order, and the supplements thereto, there has been sold all but $134,000.00 face value of bonds, and applicant now asks that the minimum price be reduced from 87½ to 86 per cent of face value.

I am satisfied from the evidence and from the well known financial condition at the present time that this request is reasonable and this application should be granted.

Herewith a form or order:

ORDER.

Application having been made by Southern California Edison Company for an order changing the minimum price at which it was authorized to issue certain of its bonds, and a public hearing having been held and it appearing to the Commission that said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that Southern California Edison Company is hereby authorized to sell $134,000.00 face value of the bonds hereinbefore authorized to be issued in this proceeding at not less than 86 per cent of face value, with accrued interest, net to applicant. The original order herein and the supplements thereto otherwise to remain in full force and effect.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of November, 1914.

DECISION No. 1930.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA EDISON COMPANY FOR PERMISSION TO ISSUE ITS FIVE PER CENT BONDS OF THE FACE VALUE OF SEVEN HUNDRED AND EIGHTY-FOUR THOUSAND DOLLARS.

Application No. 1405.

Decided November 10, 1914.

Applicant, Southern California Edison Company, authorized to issue $784,000.00 face value of its 5 per cent bonds, to be sold at not less than 86, $266,000.00 of said bonds to be issued immediately, proceeds to be used to retire notes of the face value of $250,000.00, the balance of said bonds to be issued only under supplemental order, proceeds to be used to reimburse treasury for money expended for capital purposes.

H. H. Trowbridge, for Applicant.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Southern California Edison Company for an order authorizing the issue of $784,000.00 face value of its 5 per cent bonds. Of these applicant asks authority to issue immediately $266,000.00, to be sold at not less than 86 per cent of face value, with accrued interest, the proceeds therefrom to be applied toward paying off certain specified obligations represented by promissory notes amounting to $250,000,00. The remaining $518,000.00 face value of bonds applicant asks for authority to issue, but upon condition that the Commission hereafter fix, by supplemental order, the price at which they are to be sold, and also designate specifically the purposes for which the proceeds thereof are to be used.

The financial condition of applicant has been extensively reviewed in Application No. 350, and the decision therein, No. 423.

The evidence shows that applicant has expended for betterments, additions, etc., $1,045.751.98, which has not been capitalized. Of this amount $250,000.00 is represented by the promissory notes, to the payment of which the proceeds of the sale of $266,000.00 of these bonds are to be applied, and later, upon further order of the Commission, the proceeds from the sale of the $518,000.00 of bonds are to be applied toward the reimbursing of the treasury for the expenditures made for these betterments and additions.

I am satisfied that the financial condition of applicant warrants the granting of this application. It is obvious that applicant is able to meet the interest and sinking fund obligations of its indebtedness, and it is also clear from the evidence that the capital investment has been made as set out in the application and that an issuance of bonds against this investment is proper.

While it seems unfortunate that the bonds of this company should be sold to net as little as 86 per cent of face value, I am satisfied that under present financial conditions it will be necessary for applicant to dispose of these bonds at a figure approximating this amount.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made by Southern California Edison Company for an order authorizing the issue of $784,000.00 face value of its 5 per cent bonds, and a public hearing having been had, and it appearing to the Commission that the money to be derived from the issuance of said bonds is reasonably required by applicant for the purpose of retiring its obligations, and that such proceeds are not reasonably chargeable, in whole or in part, to operating expenses or to income,

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It is hereby ordered, by the Railroad Commission of the State of California, that Southern California Edison Company is hereby authorized to issue $784,000.00 face value of its 5 per cent bonds due November 1, 1939, to be issued under that certain trust indenture dated November 1, 1909, executed by Southern California Edison Company to Harris Trust and Savings Bank and Los Angeles Trust and Savings Bank, trustees. Said bonds to be issued under the following conditions, not otherwise:

1. Two hundred and sixty-six thousand dollars face value of said bonds may be issued at once, provided that applicant receives therefor not less than 86 per cent of the face value thereof, plus accrued interest at the time of delivery. Said bonds to be numbered 17873 to 18138, both numbers inclusive.

2. The proceeds from the sale of said bonds shall be applied on the payment of the following promissory notes:

Dated	Favor of	Amount	Due
Mar. 31, 1914	Ourselves	$100,000 00	Sept. 30, 1914
Aug. 15, 1914	United States Steel Products Company	10,000 00	Oct. 25, 1914
Aug. 14, 1914	First National Bank of Pomona	20,000 00	Nov. 14, 1914
Aug. 15, 1914	United States Steel Products Company	10,000 00	Nov. 25, 1914
Aug. 10, 1914	Westinghouse Electric and Manufacturing Company	10,000 00	Nov. 10, 1914
Apr. 15, 1914	Ourselves	100,000 00	
		$250,000 00	

3. The remaining $518,000.00 face value of said bonds, being numbers 18139 to 18656, both numbers inclusive, shall not be issued nor disposed of until the further order of this Commission, which order shall specify the minimum price at which said bonds may be sold and the specific application of the proceeds derived therefrom. Generally the proceeds from the sale of said bonds shall be used for the purpose of reimbursing the treasury of applicant for expenditures made in additions and betterments to the plant of applicant, which additions and betterments are set out in detail in an exhibit filed with the application herein, which exhibit is designated "Southern California Edison Company Statement Construction Expenditures January 1, to September 30, 1914."

4. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the bonds herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of bonds during the preceding month, the terms and conditions of such sale, the moneys derived

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therefrom and the use and application of such moneys, all as provided in this Commission's General Order No. 24.

5. This order shall not become effective until the fee prescribed in section 57 of the Public Utilities Act, as amended, has been paid.

6. The authority hereby given to issue bonds shall apply only to bonds issued prior to May 15, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of November, 1914.

DECISION No. 1931.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY UNDER SECTION 27 OF THE PUBLIC UTILITIES ACT TO CHARGE AND COLLECT WITHIN THE CITY LIMITS OF THE CITY OF OAKLAND FARES IN EXCESS OF FIVE CENTS FOR ONE CONTINUOUS RIDE IN THE SAME DIRECTION WITHIN THE CORPORATE LIMITS OF SAID CITY OF OAKLAND.

Application No. 860.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY UNDER SECTION 63 OF THE PUBLIC UTILITIES ACT TO INCREASE THE INDIVIDUAL MONTHLY COMMUTATION FARES BETWEEN SAN FRANCISCO, OAKLAND AND HAVENSCOURT, CALIFORNIA.

Application No. 861.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER INCREASING ITS PASSENGER FARES BETWEEN SAN FRANCISCO AND ALAMEDA COUNTY POINTS, AND BETWEEN POINTS WITHIN THE COUNTY OF ALAMEDA.

Application No. 1105.

FOOTHILL IMPROVEMENT CLUB

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 517.

HENRY WARFIELD

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 519.

Decided November 11, 1914.

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

Southern Pacific Company having, on October 29, 1914, filed an application for a rehearing of the decision heretofore made in these

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proceedings on October 10, 1914, and no good cause appearing why said application for rehearing should be granted.

It is hereby ordered that said application for rehearing be and the same is hereby denied.

And it is further ordered that the time within which, under the terms of the original order herein the Southern Pacific Company and other interested parties shall present in writing to this Commission their proposed schedule of rates to and from the points beyond Seminary avenue and upon the Stonehurst line, both for commutation and single fares in accordance with the suggestions made in the opinion rendered in these proceedings on October 10, 1914, be and the same is hereby extended to and including Monday, November 23, 1914.

By order of the Railroad Commission.

Dated at San Francisco, California, this 11th day of November, 1914.

DECISION NO. 1932.

SAN JOSE WATER COMPANY

vs.

TOWN OF LOS GATOS.

Case No. 714.

Decided November 12, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled proceeding having, under date of November 11, 1914, made written request that the complaint be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 12th day of November, 1914.

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Decision No. 1933.

IN THE MATTER OF THE APPLICATION OF NILAND WATER COMPANY FOR ORDER AUTHORIZING THE ISSUE BY IT OF COMMON STOCK OF THE PAR VALUE OF FIFTY THOUSAND DOLLARS AND BONDS OF THE FACE VALUE OF FORTY THOUSAND DOLLARS.

Application No. 1284.

Decided November 12, 1914.

Applicant, incorporated for the purposes of constructing a water distributing system to serve the town of Niland, Imperial County, is authorized to issue $30,000.00 par value of stock and $25,000.00 face value of bonds, to be sold to net not less than 80, proceeds to be used for such construction purposes. Applicant also granted a certificate of public convenience and necessity to exercise rights under a certain franchise to be hereafter obtained from the county of Imperial.

James P. Clark, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application for a certificate of public convenience and necessity and for an order authorizing the issue of stocks and bonds.

Niland Water Company has been incorporated for the purpose of constructing a water system and furnishing the people of Niland and vicinity, in Imperial County, with water for domestic purposes.

The proposed plant of applicant has been estimated to cost approximately $33,304.00. The land necessary to be used for the purpose of this plant in the immediate future has an estimated value of $5,200.00. There has been filed with the Commission a letter from Imperial Valley Farm Lands Association offering to sell 560 shares of stock in Imperial Water Company No. 3 for $17.50 per share, or a total of $9,800.00.

This shows a total plant value of $48,304.00 against which applicant asks to be permitted to issue $27,000.00 par value of stock and $40,000.00 face value of bonds.

The land is to be donated to applicant, hence the immediate need of cash will be $33,304.00 for construction of plant and $9,800.00 for water stock, or a total of $43,104.00.

Niland is unincorporated and is one of the new communities in Imperial Valley. Before people will settle in such a community a water supply is needed, and hence a project such as is here contemplated must pioneer. That is to say, investment must be made in the plant prior to the time when consumers are available sufficient to make it profitable.

As the prospective earnings of this plant are entirely speculative, and hence the ability to pay interest on bonds or dividends on stock is

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uncertain, I recommend that authority be given to issue $25,000.00 face value of bonds and $30,000.00 par value of stock, and that the bonds be sold to net applicant not less than 80 per cent of face value and the stock to net not less than 80 per cent of par. This will produce $44,000.00, which, as above indicated, is sufficient for the present needs of applicant.

The franchise, a copy of which is on file herein, and under which applicant asks the certificate of public convenience and necessity, does not conform to the law. Applicant should obtain a valid franchise from the supervisors of Imperial County, and this order should be made subject to their obtaining such a franchise. Also, the order should be made subject to obtaining of the stock under which water will be obtained for this system.

Herewith a form of order:

ORDER.

Application having been made by Niland Water Company for an order authorizing the issue of $27,000.00 par value of capital stock and of $40.000.00 face value of bonds, and for a certificate that public convenience and necessity require and will require the exercise of rights and privileges under a franchise alleged to have been granted by the county of Imperial, California, and a public hearing having been had and it appearing to the Commission that the proceeds from the sale of the stocks and the bonds hereinafter authorized, are reasonably required by applicant for the acquisition of property and for the construction of a water system, and that such proceeds are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered and declared, by the Railroad Commission of the State of California, that public convenience and necessity require and will require the exercise of rights and privileges by Niland Water Company, under a franchise hereafter to be granted by the county of Imperial.

It is hereby further ordered, by the Railroad Commission of the State of California, that Niland Water Company is hereby authorized to issue $25,000.00 face value of bonds, to draw interest at the rate of 6 per cent per annum, and said company is further authorized to issue $30,000.00 par value of its common capital stock.

This order is made upon the following conditions, not otherwise:

1. Before this order shall become effective, there shall be filed, for the approval of this Commission, a franchise from the county of Imperial, granting to applicant the privilege of constructing, operating and maintaining a water plant and system in that territory described in the application and exhibits attached thereto.

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2. Before this order shall become effective, applicant shall prove to the satisfaction of this Commission that it has obtained and owns water stock or other means of obtaining sufficient water for the purposes of this water system.

3. Before this order shall become effective, applicant shall file for the approval of this Commission, a trust deed or mortgage under which the bonds hereinabove authorized are to be issued.

4. The purposes for which the proceeds of the sale of the stocks and bonds herein authorized are to be used are: The acquisition, construction and installation of a water plant or system in and adjacent to Niland, Imperial County, California.

5. Before this order shall become effective, a complete description of the proposed water plant or system, together with the land which shall form a part thereof, shall be filed for the approval of this Commission.

6. The bonds herein authorized to be issued shall be sold so as to net applicant not less than 80 per cent of face value, with accrued interest, and the stock herein authorized shall be sold so as to net applicant not less than 80 per cent of par value.

7. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the bonds and stock herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of bonds and stock during the preceding month, the terms and conditions of such sale, the moneys derived therefrom and the use and application of such moneys, all as provided in this Commission's General Order No. 24.

8. This order, in so far as it authorizes the issue of bonds, shall not become effective until the fee prescribed in section 57 of the Public Utilities Act, as amended, has been paid.

9. The authority hereby given to issue bonds and stock shall apply only to bonds and stock issued prior to May 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of November, 1914.

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DECISION No. 1939.

IN THE MATTER OF THE APPLICATION OF THE HAWTHORNE ELECTRIC AND WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK FOR THE ACQUISITION OF CERTAIN PROPERTIES AND FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 1276.

Decided November 13, 1914.

Applicant having applied for permission to issue $18,000.00 par value of its capital stock and approximately $20,000.00 face value of bonds and it appearing that certain items proposed to be capitalized are not proper capital expenditures, application denied without prejudice to its renewal to include revised schedule of proposed expenditures.

Frank J. Thomas, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Hawthorne Electric and Water Company for an order authorizing the issue of $18,000.00 par value of capital stock and certain of its bonds, and for an order authorizing it to incumber its property as security for the payment of said bonds.

Applicant operates a water system in the town of Hawthorne, Los Angeles County. It has an authorized capital stock of $50,000.00 par value, of which there has been issued $13,805.00 par value. It has no bonded indebtedness, but it has outstanding promissory notes in the principal sum of $32,570.33, on which interest had accrued up to July 1, 1914, amounting to $2,176.54, and additional interest has accumulated since.

It is proposed to refund these outstanding notes and the interest due thereon with 5 per cent bonds of applicant, the bonds to be exchanged at full face value.

Applicant in addition to its own system has been serving water through two pipe lines owned by others, and it is proposed to purchase these pipe lines and to give in exchange therefor $18,000.00 par value of its capital stock.

Applicant claims that the original cost of its system was $39,553.75, and that the original cost of the pipe lines to be acquired with the $18,000.00 par value of capital stock was $19,204.66. This makes a total original cost of plant of $58,758.41, against which there would be, if this application were granted, approximately $34,746.87 of bonds and $31,805.00 of stock, or a total capitalization of $66,551.87. Hence, without taking into account any depreciation, there would be $7,793.46 more capitalization than property to support it.

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Furthermore, it appears from an examination of the items of expenditure represented by the outstanding promissory notes that many of these items are for operating expenses such as salaries, stamps, supplies, etc., and while it might be proper to capitalize these as being a maintenance of service, yet this should only be done in the event that applicant's financial condition would warrant the issuance of the securities required.

This application has in many respects been carefully prepared and evidences a large amount of labor and thought, and I am not inclined to deny this application without giving an opportunity to modify or change it. I believe that the purchase of the pipe lines in exchange for $18,000.00 par value of capital stock is permissible, and with this plant added to the existing plant of applicant I believe that a bond issue of approximately $20,000.00 would be warranted. I think this application should be denied, with permission to applicant to present to the Commission without further hearing a revised financial plan.

Herewith a form of order:

ORDER.

Application having been made by Hawthorne Electric and Water Company for an order authorizing the issue of stocks and bonds, and for an order authorizing the incumbering of its property as security for the payment of bonds, and a public hearing having been had and it appearing to the Commission that the application should be denied without prejudice,

It is hereby ordered, by the Railroad Commission of the State of California, that this application be and the same is hereby denied, with permission to applicant to submit a revised or modified application to the Commission without the necessity of further hearing.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of November, 1914.

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Decision No. 1935.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN CALIFORNIA MOUNTAIN WATER COMPANY TO SELL AND THE CORONADO WATER COMPANY TO PURCHASE CERTAIN PROPERTY DESIGNATED AS THE HIGHLAND RESERVOIR PIPE LINE.

Application No. 1299.

Decided November 13, 1914.

Southern California Mountain Water Company authorized to sell and the Coronado Water Company to purchase that certain water property known as Highland Reservoir Pipe Line for the sum of $165,350.94, provided that the purchaser shall assume all obligations as to service at present incumbent upon its predecessor.

R. G. Dilworth, for Applicant.

Report of the Commission.

Edgerton, *Commissioner.*

This is an application by Southern California Mountain Water Company to sell, and Coronado Water Company to purchase, certain property designated as Highland Reservoir Pipe Line.

Southern California Mountain Water Company now owns and operates a water pipe line running from a point on the main pipe line owned by the city of San Diego, running from the Otay dam to the city of San Diego, to a point 3,979 feet west of the Highland reservoir, where it joins and connects with the pipe line of the Coronado Water Company. It also owns and maintains the Highland reservoir adjacent to its pipe line. It is proposed to transfer this property, together with all rights and privileges under certain contracts whereby the city of San Diego agrees to furnish water to Southern California Mountain Water Company, to Coronado Water Company, which is now operating a public utility water system. Thereafter the latter company is to operate both its present system and the one to be acquired as one unified system.

The price to be paid for this property was to be an appraisal or valuation placed upon it by engineers of both companies. This appraisal has been made and prior to the hearing was fixed at a present value of $165,350.94. At the hearing applicant submitted in evidence certain additions to this value, which additions are made up of intangibles which applicant claims should be added to the sum heretofore named.

The engineers of this Commission have examined the appraisal originally submitted, together with the proposed addition to such appraisal, and there is substantial agreement on the value of $165,350.94 originally found, but there is disagreement between the engineers of this Commission and the engineers of applicant as to the proposed additions.

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It was stated at the hearing that the ownership of both of these companies was the same, and therefore the price to be paid for the transfer of this property from the one company to the other was unimportant, except as it might indicate the Commission's opinion of the value of the plant for purposes of rate fixing, etc., hereafter.

I think this application should be granted, as I believe that the operation of both plants by the one company is advantageous, but I do not believe that this is the proper proceeding in which to come to a definite conclusion as to the value of the plant proposed to be transferred. Therefore, I think the price to be paid should be that upon which there is substantial agreement, to wit, $165,350.94, and it should be understood that this price does not bind the Commission nor applicants as to the true value of the property in question.

There are a few consumers being served by the plant proposed to be transferred, and the order should be made conditioned upon the assumption of the obligations of service now resting upon this plant, by its purchaser, Coronado Water Company.

Herewith a form of order:

ORDER.

Application having been made by Southern California Mountain Water Company to sell, and Coronado Water Company to purchase, certain property designated as Highland Reservoir Pipe Line, and a public hearing having been had and it appearing to the Commission that public interest will be served by granting this application,

It is hereby ordered, by the Railroad Commission of the State of California, that Southern California Mountain Water Company is hereby authorized to sell and convey and Coronado Water Company is hereby authorized to acquire and purchase that certain property designated as the Highland Reservoir Pipe Line, together with all rights and privileges, under certain contracts made between the city of San Diego and Southern California Mountain Water Company, all of which property is more fully described in Exhibit "B" attached to the application herein. The consideration for such conveyance shall be the sum of $165,350.94.

This order is made upon the condition that Coronado Water Company shall assume and carry out all of the obligations now resting upon Southern California Mountain Water Company to serve existing consumers upon the system hereinabove described.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of November, 1914.

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Decision No. 1936.

IN THE MATTER OF THE APPLICATION OF THE UNION TRUST AND SAVINGS BANK OF PASADENA AND GEORGE WOODBURY FOR AUTHORIZATION TO SELL CERTAIN REAL PROPERTY AND A CERTAIN WATER DISTRIBUTING SYSTEM TO THE CITY OF PASADENA AND OF THE CITY OF PASADENA TO PURCHASE SAID PROPERTY.

Application No. 1386.

Decided November 13, 1914.

Union Trust and Savings Bank of Pasadena and George Woodbury authorized to sell to the city of Pasadena their certain water distributing system now serving territory partly within and partly without said city, provided that the purchaser shall assume all obligations to serve consumers outside such city limits as now resting upon present company.

John Munger, for the City of Pasadena.

Elliott Gibbs, for Union Trust and Savings Bank of Pasadena, and George Woodbury.

Report of the Commission.

Edgerton, *Commissioner.*

This is an application by Union Trust and Savings Bank of Pasadena and George Woodbury for an order authorizing the sale to the city of Pasadena of a water distributing plant located partly in the city of Pasadena and partly in territory adjacent thereto.

Union Trust and Savings Bank of Pasadena, as trustee for George Woodbury, holds title to a water distributing system known as the Woodbury system, which serves water partly within and partly without the city of Pasadena.

It is now proposed to sell this system to the city of Pasadena, and hereafter it will be operated by said city as part of its municipal water system.

The price agreed upon is $35,000.00, and the evidence shows that this is a reasonable price for the property proposed to be conveyed.

The transfer of this property to the city of Pasadena would undoubtedly be for the public good, as the city is in a very much better position to produce adequate service to the consumers under this system than its present owner.

I recommend that the application be granted, and submit herewith the following form of order:

ORDER.

Application having been made by Union Trust and Savings Bank of Pasadena and George Woodbury for an order authorizing the sale to

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the city of Pasadena of a certain water system known as the Woodbury system, and a public hearing having been had and it appearing to the Commission that it is for the public good that said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that Union Trust and Savings Bank of Pasadena and George Woodbury be and they are hereby authorized to sell to the city of Pasadena that certain water distributing plant known as the Woodbury system, said plant being partly within and partly without the city of Pasadena, for the sum of $35,000.00, said conveyance to be made under the terms of that certain contract made on the 27th day of August, 1914, between George Woodbury and Union Trust and Savings Bank of Pasadena and the city of Pasadena, a copy of which contract is on file herein, marked Exhibit "A," reference to which is hereby made for a complete description of the property to be conveyed and the terms of such conveyance.

This order is made upon the condition that all of the consumers under the water plant herein authorized to be sold and conveyed shall be served by the city of Pasadena, and all the obligations of service now resting upon said system shall be assumed and carried out by the city of Pasadena.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of November, 1914.

Decision No. 1937.

IN THE MATTER OF THE APPLICATION OF WALNUT CREEK WATER COMPANY FOR AUTHORITY TO ISSUE A PROMISSORY NOTE AND TO MORTGAGE PROPERTY.

Application No. 1393.

Decided November 13, 1914.

Applicant, Walnut Creek Water Company, authorized to mortgage its property and to issue a note secured thereby, in the sum of $2,000.00, such note to be issued in renewal of a note in a like amount previously issued without the Commission's authorization, proceeds of which were used in the acquisition of property.

Winfield Dorn, for Applicant.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by Walnut Creek Water Company for authority to issue a promissory note in the sum of $2,000.00 to California Investment Company and to mortgage a parcel of real estate as security for said note.

Walnut Creek Water Company supplies water to the inhabitants of the town of Walnut Creek, Contra Costa County. On September 16, 1913, it purchased from California Investment Company a certain parcel of land near the town of Walnut Creek, being the north 2.55 acres of Lot No. 5 of that certain subdivision of land known as "Walnut Park." In consideration therefor the applicant issued its promissory note dated September 16, 1913, for $2,000.00 to California Investment Company, said note bearing interest at the rate of 7 per cent per annum and maturing two years from date. The applicant executed a mortgage on said parcel of real estate as security for the note in the sum of $2,000.00.

It appears that the note in the sum of $2,000.00 was issued without the approval of this Commission. Mr. R. N. Burgess, president of Walnut Creek Water Company, testified at the hearing that the note was issued and the mortgage executed in ignorance of those provisions of the Public Utilities Act which require the previous approval of this Commission.

The note was issued for the acquisition of property and I therefore recommend that the application be granted.

ORDER.

Walnut Creek Water Company having applied to this Commission for authority to execute a promissory note in the sum of $2,000.00 to replace a note in the same amount illegally issued, and for authority, further, to mortgage a certain parcel of land in the town of Walnut Creek, in Contra Costa County, being the north 2.55 acres of Lot No. 5 of that certain subdivision of land known as "Walnut Park."

And a hearing having been held and it appearing that the purpose for which the note is to be issued is not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Walnut Creek Water Company be given authority and it is hereby given authority to execute its promissory note in the sum of $2,000.00 to California Investment Company, said note to bear interest at 7 per cent per annum and to mature not later than two years after date, said note to be used to replace a note dated September 16, 1913, for $2,000.00 issued by said Walnut Creek Water Company to California Investment Company.

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It is further ordered that Walnut Creek Water Company be given authority and it is hereby given authority to mortgage that certain portion of its property consisting of a parcel of land near Walnut Creek, being the north 2.55 acres of Lot No. 5 of that certain subdivision of land known as "Walnut Park."

The authority herein given is given upon the following conditions and not otherwise:

(1) The applicant herein shall, within thirty days, report to this Commission that the note herein authorized to be issued has been issued, and that the note which it is to replace has been canceled.

(2) The authority herein granted shall apply to such note as shall have been issued on or before December 31, 1915.

(3) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of November, 1914.

DECISION No. 1938.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-WESTERN RAILROAD AND NAVIGATION COMPANY AND UNION LUMBER COMPANY FOR AN ORDER AUTHORIZING THE SALE OF A PORTION OF THE PROPERTY OF THE FORMER COMPANY TO THE LATTER COMPANY.

Application No. 1325.

Decided November 13, 1914.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

SUPPLEMENTAL OPINION.

By its order dated September 21, 1914, in the above entitled proceeding, this Commission authorized California-Western Railroad and Navigation Company to convey to Union Lumber Company certain real property in Mendocino County, California, more particularly described in draft of deed which is attached to the original petition herein and marked "Exhibit A," and also authorized the conveyance to Union Lumber Company of the right for a period of fifty years to the use of the wharf and moorings at Fort Bragg by Union Lumber Company, in so far as necessary in the conduct of its own business. This order was made subject to certain conditions, including the condition that before

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the agreement with reference to the wharf is executed and the conveyance of the real property made, California-Western Railroad and Navigation Company should first have presented to the Railroad Commission a form of deed from Union Lumber Company and should first have secured from the Railroad Commission a supplemental order approving the same, this deed to convey to California-Western Railroad and Navigation Company certain real property and interests therein, particularly described in the order.

A form of such deed from Union Lumber Company to California-Western Railroad and Navigation Company, dated September 25, 1914, has now been presented to the Commission and is satisfactory in form. I accordingly recommend that California-Western Railroad and Navigation Company be now authorized to consummate the transactions referred to in this Commission's order of September 21, 1914, and submit the following form of supplemental order:

SUPPLEMENTAL ORDER.

California-Western Railroad and Navigation Company having submitted to the Railroad Commission a form of deed from Union Lumber Company to California-Western Railroad and Navigation Company, dated September 25, 1914, in compliance with the conditions specified in this Commission's order of September 21, 1914, in the above entitled proceeding, and the Railroad Commission finding that this form of deed is satisfactory,

It is hereby ordered that California-Western Railroad and Navigation Company be now authorized to execute the conveyances specified in said order. A certified copy of each deed and agreement referred to in said order of September 21, 1914, should, after execution, be filed with the Railroad Commission.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of November, 1914.

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Decision No. 1939.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF DEBENTURE BONDS OF THE FACE VALUE OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 1354.

Decided November 13, 1914.

Applicant originally proposed to issue $500,000.00 face value of debenture bonds for the purpose of refunding outstanding indebtedness incurred for extensions to present system, and it appearing that applicant has been paying a liberal dividend upon its outstanding stock and proposes to pay the entire cost of new extensions from bonds only, application amended to apply for permission to issue $250.000.00 face value of bonds to be sold at not less than 93, and $240,000.00 par value of capital stock to be sold at par, proceeds to be used to refund outstanding obligations aggregating the sum of $472,296.37, which application is granted as amended.

A. H. Sweet, for Applicant.

Report of the Commission.

THELEN, *Commissioner.*

This is an application for authority to issue $500,000.00 face value of 6 per cent debenture bonds at not less than 93 per cent of their face value and accrued interest, for the purpose of paying outstanding indebtedness, as will hereinafter appear in greater detail.

Applicant alleges that in making up the difference between the moneys realized by it from the sale of first mortgage bonds and the cash cost of permanent extensions and additions to its properties since January 1, 1909, applicant has been compelled to incur a large floating indebtedness, amounting on August 31, 1914, to $548,642.08. This indebtedness is as follows:

Due to Standard Gas and Electric Company on notes	$108,583 94
Due to Standard Gas and Electric Company on open account	159,318 43
Due to H. M. Byllesby & Company on notes	80,000 00
Due to banks and others on notes	124,394 00
Accounts payable	76,345 71
Total	$548,642 08

Applicant now desires to pay this indebtedness, except the accounts payable, amounting to $76,345.71, by issuing its 6 per cent debenture bonds, of the total face value of $500,000.00 to be sold at not less than 93 per cent of their face value, together with accrued interest.

Applicant's financial affairs have heretofore on several applications been investigated by this Commission and reference is hereby made to the opinions and orders therein.

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The territory served by applicant, being the city of San Diego and the surrounding country, has been growing in population by leaps and bounds during the last few years, and the number of applicant's customers, both for electricity and gas, has increased *pari passu*. Applicant has been called upon to make heavy expenditures for extensions and additions to meet the growth in the territory served by it, and the problem of securing the necessary additional capital has not been free from difficulties. If bonds or debentures are to be sold at a discount to pay the indebtedness for the entire new capital expenditures, it is evident that the margin between the value of the property and the face value of the bonds and debentures outstanding will gradually decrease until it entirely disappears—a condition fraught with danger and which must be avoided.

During the time these new expenditures have been accumulating, applicant has not merely continued to pay its regular dividend of 7 per cent on its common stock, but has also paid additional dividends as follows:

January, 1912, extra dividend	$147,000 00
July, 1912, extra dividend	108,600 00

From June, 1913, to date, applicant has also increased its dividend on common stock from 7 per cent to 10 per cent per annum. The excess of the 10 per cent dividend in 1913 over the regular 7 per cent dividend was $47,512.00, and this excess dividend was continued in 1914 to the date of the hearing herein.

Applicant's principal stockholder is Standard Gas and Electric Company, which company owns 27,132 shares out of a total of 27,150 shares of applicant's issued capital stock. This company is also applicant's principal creditor. Why applicant has been paying out the excess dividend hereinbefore designated, while at the same time its indebtedness for new capital expenditures has been rapidly increasing, is not quite clear. It would seem wiser to use the excess earnings over the regular 7 per cent dividend for the purpose of paying off a portion of this indebtedness instead of paying out the excess dividend and then being compelled to sell bonds or debentures at a discount to pay the indebtedness. If one dollar of earnings is used to pay one dollar of indebtedness, the position of the property is strengthened and its bonding capacity is correspondingly increased. However, if one dollar is paid out in dividends it is gone for all time and the utility must, if it sells bonds or debentures at 93 per cent of their face value, sell $1.07, face value thereof, to secure sufficient funds to pay $1.00 of indebtedness, and no margin for further bonding is created. It seems clear that, particularly at the present time, when extensive additional demands for further capital expenditures are being made upon applicant it would be the part of wisdom to use the earnings above the 7

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per cent dividend to pay indebtedness of applicant instead of paying them out as dividends, and I recommend that this policy be pursued until further suggestion from this Commission.

This matter has been drawn to applicant's attention and applicant has requested that its application be modified so as to ask for the issue of debentures of the face value of $250,000.00 to be sold at not less than 93 per cent of their face value, plus accrued interest, and of common capital stock of the par value of $240,000.00, to be sold at par, the proceeds to be used to pay applicant's indebtedness, as specified in the petition herein.

I find that the purposes for which the proceeds of the debentures and capital stock herein authorized are to be used are not in whole or in part reasonably chargeable to operating expenses or to income and recommend that the application be granted as modified.

In authorizing the issue of capital stock at par, the Commission is not as yet prepared to pass on the question of the actual value of the capital stock heretofore issued.

I submit the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission of the State of California for an order authorizing the issue of debenture bonds by said company to the amount of $250,000.00, face value, said bonds to be payable on the first day of December, 1922, unless sooner redeemed, and to bear interest at the rate of six (6) per cent per annum, payable semiannually, under and in pursuance of the terms of an indenture to Continental and Commercial Trust and Savings Bank and Frank H. Jones, trustees, dated December 1, 1912, and also $240,000.00, par value, of its common capital stock, for the purposes hereinafter specified, and a public hearing having been held upon said application, and the Railroad Commission finding that the proceeds from the issue of said debentures and capital stock are necessary to and reasonably required by said company for the discharge and lawful refunding of obligations, as will hereinafter appear in greater detail, and that the purposes for which said debentures and capital stock are to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Diego Consolidated Gas and Electric Company be and the same is hereby authorized to issue $250,000.00, face value, of said company's six (6) per cent debenture bonds, payable on December 1, 1922, unless sooner redeemed, interest to be payable semiannually, under and in pursuance of the terms of an indenture to Continental and Commercial Trust and Savings Bank and Frank H. Jones, trustees, dated December 1, 1912, and also $240,000.00, par value,

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of the company's common capital stock, on the following conditions and not otherwise, to wit:

1. San Diego Consolidated Gas and Electric Company shall sell said debenture bonds hereby authorized so as to net the said company not less than ninety-three (93) per cent of the face value of the principal thereof, plus interest accrued thereon, and shall sell said common capital stock at not less than par.

2. San Diego Consolidated Gas and Electric Company shall not be authorized to issue said debenture bonds unless prior to the issue thereof or concurrently therewith it shall issue its said capital stock at par.

3. The proceeds from the sale of said debenture bonds and of said common capital stock shall be used only for the purpose of discharging or refunding obligations of said company set forth with particularity in the petition herein and summarized as follows:

Due to Standard Gas and Electric Company on notes	$108,583 94
Due to Standard Gas and Electric Company on open account	159,318 43
Due to H. M. Byllesby & Company on notes	80,000 00
Due to banks and others on notes	124,394 00
Total	$472,296 37

4. San Diego Consolidated Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the debenture bonds and common capital stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Railroad Commission, stating the sale or sales of said bonds and capital stock during the preceding month, the terms and conditions of sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. In so far as this order authorizes the issue of debenture bonds, it shall not become effective until applicant has paid the fee specified in section 57, as amended, of the Public Utilities Act.

6. The authority hereby given to issue debenture bonds and common capital stock shall apply only to debenture bonds and capital stock issued on or before June 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of November, 1914.

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Decisions Nos. 1940 and 1941, grade crossings; not printed. See end of volume.

DECISION No. 1942.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES OF THE TOTAL FACE VALUE OF THIRTY-TWO THOUSAND DOLLARS.

Application No. 1378.

Decided November 16, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that the order heretofore entered on November 5, 1914, in the above entitled proceeding be and the same is hereby amended so as to authorize the notes which are to be payable to the order of Merchants National Bank of San Diego to be ninety (90) day notes instead of one day notes.

In all other respects said order of November 5, 1914, shall remain in full force and effect.

Dated at San Francisco, California, this 16th day of November, 1914.

DECISION No. 1943.

IN THE MATTER OF THE APPLICATION OF THE GLENDALE AND MONTROSE RAILWAY FOR ORDER AUTHORIZING INCREASE IN CAPITAL STOCK AND CHANGE IN PAR VALUE OF STOCK.

Application No. 1327.

Decided November 17, 1914.

Applicant, having at present $25,000.00 par value of stock outstanding, all of which is held by J. Frank Walters, proposes to amend its articles of incorporation so as to permit of an issue of $250,000.00 par value of stock; to exchange $25,000.00 par value of such new issue for the stock now held by Mr. Walters and to issue such further amount of stock at 10 cents per share as may be necessary to refund applicant's floating indebtedness.

Held, That applicant's proposal to issue its stock at 1 per cent of its face value is not sound financing, but that its proposal to refund its floating debt by stock issue should be permitted. Application denied, without prejudice to its renewal under more favorable conditions.

Haas & Dunnigan, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Glendale and Montrose Railway for an order authorizing the issue of $250,000.00 par value of capital stock.

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Applicant also asks authority to amend its articles of incorporation to provide for an increase of its capital stock, but this may be done without the authorization of this Commisison. Of course, no stock may be issued under the amended articles without an order.

At present applicant is authorized by its articles of incorporation to issue 250 shares of stock of a par value of $100.00 per share, or a total par value of $25,000.00. All of this stock is outstanding and is owned by J. Frank Walters.

It is proposed to amend the articles of incorporation to provide for an increase of capital stock from $25,000.00 par value to $250,000.00 par value divided into shares of $10.00 each, and to dispose of this stock as follows:

Two thousand five hundred shares to be issued in exchange for the 250 shares now outstanding. This is on a basis of an even exchange of par value of stock.

Twenty-two thousand five hundred shares to be issued to J. Frank Walters at 10 cents per share in partial retirement of indebtedness owed by applicant to him.

This would mean the delivery of $225,000.00 par value of stock for $22,500.00, or a sale of stock at 1 per cent of par value.

I think the mere statement of this proposal indicates that it should be denied, as to permit this corporation to sell its stock at such a small fraction of its par value would certainly result in heavy overcapitalization.

Furthermore, the purpose to be served by this transaction is not at all clear. Mr. Walters now owns all of the stock of applicant, and if this application were granted he would own all of the new stock, which would in no wise change his relation to the corporation, except that he would have a vastly increased amount of par value of stock.

It is true that the plan to retire indebtedness by the issuance of stock is meritorious, provided that it be done upon a proper basis. Therefore, I recommend that this application be denied with permission to applicant to submit an amended application, setting out a modified plan for the issuance of this stock, and that no further hearing be required upon the submission of the amended application.

Herewith a form of order.

ORDER.

Application having been made by Glendale and Montrose Railway for an order authorizing the issue of capital stock, and it appearing to the Commission that said application should be denied without prejudice,

It is hereby ordered, by the Railroad Commission of the State of California, that the application herein be and the same is hereby denied, with permission to applicant to file an amended application embodying

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a modified proposal for the issuance of stock, and that no further hearing be required upon said amended application.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of November, 1914.

Decision No. 1944.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-WESTERN RAILROAD AND NAVIGATION COMPANY FOR AUTHORITY TO ISSUE SEVEN HUNDRED FIFTY THOUSAND DOLLARS OF BONDS.

Application No. 1335.

Decided November 17, 1914.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

FIRST SUPPLEMENTAL ORDER.

This Commission having, on October 8, 1914, issued its order in the above entitled matter authorizing California-Western Railroad and Navigation Company to issue $750,000.00 of bonds, and said order having provided that said bonds should be issued only after the applicant had received a supplemental order from this Commission approving its deed of trust securing said issue of bonds;

And applicant now having filed with this Commission a copy of its mortgage and deed of trust to Anglo-California Trust Company, trustee, securing said issue of bonds, said mortgage and deed of trust having been marked Exhibit "B" in connection with the application herein.

It is hereby ordered that said mortgage and deed of trust executed by California-Western Railroad and Navigation Company to Anglo-California Trust Company, trustee, dated October 1, 1914, be and it is hereby approved.

Dated at San Francisco, California, this 17th day of November, 1914.

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Decisions Nos. 1945, 1946, 1947, and 1948, grade crossings; not printed. See end of volume.

DECISION No. 1949.

IN THE MATTER OF THE APPLICATION OF SAN JOSE WATER COMPANY FOR AUTHORITY TO REFUND NOTES IN THE AMOUNT OF ONE HUNDRED AND SIXTY THOUSAND DOLLARS.

Application No. 1352.

Decided November 19, 1914.

S. F. Leib, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

San Jose Water Company having applied to this Commission for authority to issue $160,000.00 of promissory notes with interest not to exceed 6 per cent, and to mature not later than two years from date, for the purpose of refunding a like amount of promissory notes;

And a hearing having been held and it appearing that the purposes for which the applicant herein proposes to issue said notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Jose Water Company be given authority to issue promissory notes in the sum of $160,000.00.

The authority herein given is given upon the following conditions and not otherwise:

(1) Applicant shall receive for said notes the face value thereof.

(2) The notes herein authorized to be issued shall carry an interest rate not to exceed 6 per cent per annum, and shall mature not later than two years from date.

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(3) The applicant shall issue the notes herein authorized only for the purpose of refunding or extending the following notes:

Date	To whom given	Amount	Interest rate	Time
Mar. 3, 1913	First National Bank	$2,000 00	5 per cent	1 day
Apr. 23, 1913	First National Bank	10,000 00	5 per cent	1 day
May 22, 1913	Ethel and A. F. Clayton	6,000 00	6 per cent	1 day
June 8, 1913	James Gillon	25,000 00	6 per cent	1 year
June 8, 1913	H. S. Kittredge	5,000 00	6 per cent	1 year
June 12, 1913	Emily J. Williams	5,000 00	6 per cent	1 year
June 29, 1913	Chas. C. Ford	4,000 00	6 per cent	1 year
Mar. 3, 1914	Garden City Bank	15,000 00	6 per cent	2 months
Dec. 5, 1913	Paul Fraser	1,000 00	6 per cent	1 year
Dec. 26, 1913	Eugene D. and F. T. Snow	4,000 00	6 per cent	1 year
Jan. 2, 1914	S. Grant Moore	5,000 00	6 per cent	1 year
Jan. 2, 1914	Paul Regli	4,000 00	6 per cent	1 year
Jan. 2, 1914	W. J. Wilcox	6,000 00	6 per cent	1 year
Jan. 3, 1914	Della A. Montgomery	2,000 00	6 per cent	1 year
Feb. 4, 1914	W. M. Herrold	1,000 00	6 per cent	1 year
Mar. 17, 1914	Mrs. E. J. Dawson	1,000 00	6 per cent	1 year
Apr. 8, 1914	O. N. Kent	1,000 00	6 per cent	1 year
May 1, 1914	B. Blauer	1,000 00	6 per cent	1 year
July 6, 1914	Henrietta Riebsam	2,000 00	6 per cent	5 months
Sept. 2, 1913	J. H. Levy	5,000 00	6 per cent	1 year
Nov. 20, 1913	E. G. Singletary	8,000 00	6 per cent	6 months
Nov. 26, 1913	DeLancy Lewis	5,000 00	6 per cent	6 months
Feb. 14, 1914	Garden City Bank	10,000 00	6 per cent	3 months
Mar. 19, 1914	First National Bank	10,000 00	5 per cent	1 day
May 2, 1914	First National Bank	10,000 00	5 per cent	1 day
June 11, 1914	Gustave Nelson	2,000 00	6 per cent	1 year
July 16, 1914	First National Bank	5,000 00	5 per cent	1 day
Sept. 8, 1914	Emily J. Williams	3,000 00	6 per cent	10 months
Sept. 10, 1914	Agnes B. Leigh	2,000 00	6 per cent	10 months

(4) Applicant shall report to this Commission on the twenty-fifth day of each month, in writing, stating the note or notes issued during the preceding month, the date of said note or notes, the face value thereof, the payees of said notes, the rates of interest and the maturities thereof. Said report shall also show the purposes for which said notes are issued and shall contain a list of the notes canceled or refunded.

(5) The authority herein given shall entitle the applicant herein to refund any or all of the $160,000.00 of notes mentioned in section No. 3 and to refund any notes which may be issued under this order to refund any of said notes in section No. 3, provided, however, that none of the notes herein authorized to be issued shall mature later than two years from date.

(6) The authority herein granted shall apply to such note or notes as shall have been issued on or before November 1, 1916.

(7) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of November, 1914.

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DECISION NO. 1950.

IN THE MATTER OF THE APPLICATION OF MT. TAMALPAIS AND MUIR WOODS RAILWAY FOR AN ORDER AUTHORIZING IT TO PERMANENTLY ABANDON ITS LOCAL SERVICE FROM MILL VALLEY TO LEE STREET, AND FOR AN ORDER AUTHORIZING IT TO ABANDON THE OPERATION OF ITS MUIR WOODS BRANCH UNTIL MARCH 1, 1915.

Application No. 1384.

Decided November 19, 1914.

Applicant authorized to suspend operation of its Muir Woods branch during the months of November and December, 1914, and January and February, 1915. Portion of application requesting permission to permanently abandon service from Mill Valley to Lee street reset for further hearing.

William F. Thomas, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Mt. Tamalpais and Muir Woods Railway for an order authorizing the permanent abandonment of its service from the Mill Valley terminus to Lee street and the abandonment during the months of November and December, 1914, and January and February, 1915, of its service on a branch line from the "Bow Knot" station to Muir Woods.

Only the latter part of this application was heard and considered at this hearing, the 19th day of November, 1914, the agreement being that the other portion of the application relating to the service from Mill Valley terminus to Lee street should be heard on December 22, 1914.

The evidence shows that no residents or patrons are dependent upon this branch line service from Bow Knot station to Muir Woods, and it is only slightly used by tourists and pleasure seekers during the months mentioned. The expense of maintaining this service is very largely in excess of the revenue derived therefrom during these months and I am satisfied the discontinuance of this service for the time indicated is warranted. I therefore recommend that this portion of the application be granted and submit herewith an order:

ORDER.

Application having been made by Mt. Tamalpais and Muir Woods Railway for an order authorizing the permanent discontinuance of local service from its Mill Valley terminus to Lee street, and for the discontinuance of its service during the months of November and December, 1914, and January and February, 1915, on its branch line from

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the Bow Knot station to Muir Woods, and a public hearing having been had, and it appearing to the Commission that a portion of said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that Mt. Tamalpais and Muir Woods Railway is hereby authorized to discontinue all service on its branch line from the Bow Knot station to Muir Woods during the months of November and December, 1914, and January and February, 1915.

It is hereby further ordered that the remainder of said application is hereby set down for hearing on the 22d day of December, 1914, at 10 o'clock a. m., in the office of the Commission, before Commissioner Gordon.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of November, 1914.

DECISION No. 1951.

IN THE MATTER OF THE APPLICATION OF VALLEY TELEPHONE COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION AND OPERATION OF A TELEPHONE SYSTEM WITHIN THE CITY OF HOLTVILLE, CALIFORNIA.

Application No. 1349.

Decided November 23, 1914.

Applicant, Valley Telephone Company, applies for a certificate of public convenience and necessity to exercise rights under a franchise proposed to be acquired permitting the construction and operation of a telephone system in the town of Holtville, and it appearing that this town is already adequately served as regards telephone service and that a duplicated system is neither necessary nor economical, application denied.

Haines & Haines, for Applicant.

James T. Shaw, McPherrin & Nichols, and *John G. Mott,* for protestant, Imperial Telephone Company.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Valley Telephone Company for a certificate that public convenience and necessity require and will require the exercise of rights and privileges by applicant in the incorporated city of Holtville under a franchise which has been applied for but not yet granted.

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The Imperial Telephone Company has now the only telephone plant or service in the city of Holtville, and it appeared at the hearing, through its representatives, and protested against an invasion of its territory by applicant.

Applicant operates telephone lines, a part of which it owns, in territory adjacent to but outside of the city of Holtville. These lines were originally built to serve the purposes of an irrigation system, but have acquired subscribers whose use is that of the ordinary telephone subscriber.

The Imperial Telephone Company serves the territory within the city limits of Holtville exclusively and the lines of applicant connect with the lines of the Imperial Telephone Company at the city limits so that a subscriber of the applicant can telephone to any person in the city of Holtville having a telephone, through this connection, or such subscriber may telephone to the outside world over the long distance through the same connection. Subscribers of the city system can, of course, telephone to subscribers of applicant in the same way.

No evidence was introduced tending to show that the Imperial Telephone Company was not adequately serving the territory within the city limits of Holtville, nor that its rates were unreasonable, nor that in any respect it was failing in its duty to the public.

It was frankly stated by the president of applicant that there was no demand or need for two telephone systems in the city and that it was the expectation of applicant that if it was admitted into the city it would acquire as subscribers all of the people who use telephones. In other words, applicant expects to eliminate the Imperial Telephone Company's business in the city if it is allowed to enter.

The reason urged by applicant why a certificate should be granted is that at present the service rendered to its consumers through the connection at the city limits and over the system of the Imperial Telephone Company is not good service, but that if it is allowed to establish a system of its own in the city that this service will be greatly improved.

Applicant contends that if allowed to operate a local exchange in Holtville better service will be given its subscribers outside of that city, because they will have direct connection with applicant's switchboard to be established in the city. This contention could only be sustained if the complete installation of applicant inside and outside of the city was better and more efficient than the present combination of applicant's plant outside and protestant's plant inside of the city.

There is some conflict in the evidence as to what is the cause of the poor service over applicant's lines. Its witnesses insist that this poor service results from the character of the plant of the protestant. On the other hand, witnesses for protestant urge that the plant of applicant is inadequate and overloaded and not well built, and that this is the cause of the poor service.

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The evidence does not convince me that the building of a local exchange plant by applicant in the city of Holtville would obviate the present difficulties of service. In fact, it is easily possible that applicant's present plant is responsible for whatever poor service is rendered to subscribers. If this be true, applicant should improve its present service rather than completely duplicate and parallel protestant's plant in the city.

No offer of better local service to the citizens of Holtville nor any decrease in rates is made by applicant. The evidence in this case does not present a situation which would justify the Commission in permitting applicant to invade the territory of the Imperial Telephone Company, duplicate its plant and either put it out of local business or itself fail to make a success of the venture.

I recommend that the application be denied and submit herewith the following form of order:

ORDER.

Application having been made by Valley Telephone Company for a certificate declaring that public convenience and necessity require and will require the exercise of rights and privileges under a franchise applied for but not yet granted, and a public hearing having been had, and it appearing to the Commission that for the reasons set out in the foregoing opinion said application should be denied,

It is hereby ordered, by the Railroad Commission of the State of California, that the application herein be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of November, 1914.

Decisions Nos. 1952 and 1953, grade crossings; not printed. See end of volume.

DECISION No. 1954.

IN THE MATTER OF THE APPLICATION OF MARIN COUNTY ELECTRIC RAILWAY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 1360.

Decided November 23, 1914.

Applicant, Marin County Electric Railways, applies for a certificate of public convenience and necessity authorizing the exercise of rights under a franchise permitting the construction and operation of a street railway system in the town of Sausalito and also for permission to issue $18,550.00 par value of stock for the purpose of constructing the first unit of said system.

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Held. Applicant granted the necessary certificate provided it shall agree in writing that the city of Sausalito shall have the right to purchase its system after five years at a price to be mutually agreed upon. Applicant also authorized to issue the amount of stock applied for, said stock to be sold at not less than par and only to certain residents of Marin County, none of such proceeds to be expended until a total of $18,550.00 shall have been collected and deposited to the credit of applicant and, if it is impossible to collect such sum, all moneys as shall have been collected to be returned ratably to the respective subscribers.

Brewster F. Ames, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by Marin County Electric Railways, first, for a certificate that public convenience and necessity require the exercise of rights and privileges conferred in a certain franchise granted by the town of Sausalito to the applicant herein; and second, for authority to issue $18,550.00 par value of stock.

The applicant proposes to operate a street railway in the town of Sausalito under the franchise heretofore granted by Ordinance No. 234, adopted by the town trustees of Sausalito, and it proposes to finance the street railway by the sale of 185½ shares of stock, from which it expects to realize the sum of $18,550.00. The original request was for an issue of 150 shares of stock, but this was later amended and applicant now finds that it will require $18,550.00 to complete the first unit of its intended line of railway.

Marin County Electric Railways was organized on December 24, 1913, with Mr. Brewster F. Ames as president, and Mr. W. Wesley Hicks as treasurer and manager. This company has heretofore been before this Commission in Application No. 947, in which it petitioned for a certificate that public convenience and necessity would require that it operate a street railway line under a franchise granted by the town of Mill Valley, and also for authority to issue stock for the purpose of building said line of railway. Reference is hereby made to the decision of this Commission upon Application No. 947 (Decision No. 1377), and to the supplemental opinions and orders issued thereon.

This Commission, in passing upon Application No. 947, found that public convenience and necessity would be served by the operation of a line of railway in the town of Mill Valley as proposed by the applicant. It authorized Marin County Electric Railways to issue 670 shares of its capital stock of the par value of $100.00 per share for the purpose of raising funds to construct the line of railway. It was provided in the Commission's order in this matter that construction work should not begin until the applicant had collected from stock subscrip-

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tions the sum of $35,000.00. That sum has not yet been collected and the applicant has not, therefore, entered upon construction work in Mill Valley.

In the hearing upon the application herein, No. 1360, much evidence was introduced to establish that there is a demand in Sausalito for a line of street railway. It is proposed to construct the railway along the following route:

"Commencing on Alexander avenue at the entrance to the military reservation; running along Alexander avenue to South street; thence along South street to Second street; thence along Second street to Richardson street; thence along Richardson street to Water street; thence northerly along Water street to the point where said Water street intersects and forms a junction with the present traveled roadway as described more particularly in Ordinance No. 91 of the town of Sausalito, and as more particularly described in the deed of Sausalito Bay Land Company to the town of Sausalito, dated _____ and recorded in the office of the county recorder of the county of Marin, in liber 155 of deeds at page 413, and thence over said described roadway to its intersection and connection with Water street; thence north along said Water street to Caledonia street; thence along Caledonia street to Easterby street; thence along Easterby street to Bonita street; thence along Bonita street to Testa street; thence along Testa street to Caledonia street; thence along Caledonia street to Nevada street; thence west on Nevada street to Tomales street; thence along Tomales street to town limits."

For the present, however, the applicant proposes to construct only a portion of the line to extend from the Northwestern Pacific depot in a northerly direction to Spring street, a distance approximately one mile.

Sausalito is an attractive town in Marin County located on San Francisco Bay and connected by ferry service with the city of San Francisco. Its population is estimated from 2,700 to 3,240. The Northwestern Pacific Railroad Company affords a somewhat infrequent local service between Pine station and the Northwestern Pacific depot in Sausalito. It was stated at the hearing that the people of Sausalito were obliged to rely upon carriages for purposes of transportation and that the construction of the proposed line of railway would meet a real public need.

The franchise under which the applicant proposes to operate grants the company permission for fifty years to construct and operate a street railway system to be operated by electric power or other means except steam or electric locomotive and third rail. Under the terms of the franchise the town of Sausalito has the right, after twenty-five years, to take over the properties. The franchise contains the usual provisions of the Broughton Act and provides also for the use of groove girder rails of a weight not less than 85 pounds. Provision

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is also made for an interchange of transfers with the Sausalito Incline Railway, the division of fares to be adjusted by the Railroad Commission if the two companies fail to reach a satisfactory arrangement.

I believe the franchise should be amended or that the railroad company should enter into a separate stipulation with the town of Sausalito by which the town should have the right, without resorting to condemnation, to purchase the street railway system after a period of five years, at a price to be agreed upon by representatives of the town of Sausalito and of the Marin County Electric Railways.

I recommend, therefore, that this Commission find that public convenience and necessity require the exercise by Marin County Electric Railways of the rights and privileges granted by Ordinance No. 234 of the town of Sausalito, on the condition that the town of Sausalito, and the applicant herein enter into the stipulation as above stated.

Applicant first submitted an estimate of $14,937.48 as the probable cost of the first unit of its railway. It amended its estimates and figured subsequently that it would cost to construct the first unit of its line, $18,372.04. The details of this estimate were submitted as follows:

1. Grading—1706 x ⅓ x 3—1706 cubic yards at 60 cents (Revised on account of macadam.)	$1,056 00
2. Ballast—rock and gravel from excavation.	
3. 2,640 ties at 60 cents	1,584 00
4. 133.57 tons 85-pound grooved rail at $49.00	6,544 93
5. Track fastenings and joints	1,019 05
6. Macadam (mixed with cement) 5/12′ x 9′ x 5,280—733 cubic yards at $3.00	2,199 00
7. Track laying and surfacing (revised on account grooved rails)	1,500 00
8. Poles and fixtures (revised to take care of 6 iron poles)	1,000 00
9. Distribution and bonding	1,000 00
10. 1 "T" rail 50′ switch to car barn (additional to original estimate)	300 00
11. Engineering (5 per cent of items 1 to 10, inclusive)	810 20
12. Cost of franchise	234 00
13. Legal expenses	250 00
14. Contingencies, 5 per cent	874 86
Total	$18,372 04

The applicant estimated that its revenue would amount to $26.50 per day and its expenses $12.80 per day.

Applicant's estimates do not provide for the purchase of equipment. It intends in the beginning to rent a car.

The applicant has begun to take subscriptions to stock and presented to this Commission total subscriptions amounting to $3,575.00. From these subscribers it had collected, at the time of the hearing, $145.00.

It is very difficult to estimate with accuracy the earnings of an enterprise such as this. However, as has been said by this Commission in case of this nature, if residents of any particular locality desire, for the purpose of their own convenience, or for the purpose of enhancing

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the value of their real estate holdings, to construct and operate a street railway, this Commission will not be disposed to deny them that right, even though there might be very grave question as to the ability of the enterprise to earn its operating expenses. This Commission will proceed, however, on the theory that persons who interest themselves in such an enterprise should do so with full knowledge of the facts. For that reason the authorization herein will provide that the stock to be sold shall be sold only to persons living in Sausalito or neighboring sections of Marin County, or interested in property in Sausalito or surrounding territory.

The applicant asks also for authority to begin construction work on private funds, pending the sale of the $18,550.00 of stock. The arrangement as presented contemplates the repayment of the funds thus secured out of the proceeds from the sale of stock.

It is the function of this Commission to safeguard, as far as may be reasonable, the interests of investors in public utility enterprises. For that reason I am inclined to believe that construction work on this enterprise should not be undertaken until sufficient funds are in hand to insure the completion of the first unit.

Basing my conclusions upon the reasons stated in this opinion, I recommend that the applicant herein be granted authority to issue 185½ shares of stock for the purpose of raising funds to build its proposed line of railway, but I also believe that this authority should be granted only upon certain conditions. Accordingly I submit the following form of order:

ORDER.

Marin County Electric Railways having applied to this Commission for a certificate that public convenience and necessity require that it shall exercise rights and privileges granted under Ordinance No. 234, passed by the trustees of the town of Sausalito, and a hearing having been held;

It is hereby found as a fact that public convenience and necessity require that Marin County Electric Railways exercise rights and privileges granted under Ordinance No. 234 of the town of Sausalito, a copy of said ordinance being attached to the application herein to which reference is hereby made; the finding herein being based upon the condition that Marin County Electric Railways and the town of Sausalito shall enter into a stipulation which shall be approved in writing by this Commission, under the terms of which the town of Sausalito shall have the right to purchase the street railway properties within the town of Sausalito, of Marin County Electric Railways, after five years from the date of said agreement, at a price to be mutually agreed upon;

And Marin County Electric Railways having applied to this Commission for authority to issue 185½ shares of capital stock of the par

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value of $100.00 per share for the purpose of building a street railway line in accordance with an estimate appearing in the foregoing opinion;

And it appearing that the purposes for which the applicant herein proposes to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that Marin County Electric Railways be granted authority and it is hereby granted authority to issue 185½ shares of its capital stock of the par value of $100.00 per share.

The authority herein granted is granted upon the following conditions and not otherwise.

(1) The stock herein authorized to be issued shall be sold so as to net the applicant not less than the par value thereof.

(2) The proceeds from the sale of said stock shall be used for the construction of a line of street railway in accordance with estimates submitted by the applicant as Exhibit "FF," being identical with the estimates appearing in the foregoing opinion, said estimates amounting to a total of $18,372.04.

(3) Said stock shall be sold only to bona fide residents of that portion of Marin County lying south of the city of San Rafael and including the city of San Rafael; or to property owners in that portion of Marin County south of San Rafael and including the city of San Rafael.

(4) Pending the sale of said $18,550.00 of stock, no expenditure and no obligation shall be incurred chargeable to Marin County Electric Railways.

(5) Marin County Electric Railways shall enter upon the construction of its street railway herein projected only after it shall have collected from stock subscriptions the sum of $18,550.00 and shall have received a supplemental order from this Commission authorizing it to begin such construction work.

(6) When applicant shall have collected from stock subscriptions the sum of $18,550.00, it shall submit to this Commission a list of subscribers, with the address and amounts subscribed by each.

(7) All moneys obtained from the sale of stock shall be deposited by Marin County Electric Railways in a bank or banks in Marin County as trust funds, on the express condition that if a total sum of $18,550.00 shall not be deposited within six months from the date of this order, or such further time as the Railroad Commission shall grant, said moneys shall be repaid to the persons who paid them, either in toto or diminished by the ratable proportion of such expenditures as the Railroad Commission, in the meantime, may have authorized.

(8) Marin County Electric Railways shall keep separate, true and accurate accounts, showing the receipt and deposit of all funds secured in payment for or on subscriptions to the stock hereby authorized to

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be issued, and on or before the twenty-fifth day of each month the company shall make verified report to the Railroad Commission showing the receipt and deposit of all such moneys, the stock issued during the preceding month, and the terms and conditions of the issue, all in accordance with the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(9) The authority herein given shall apply to such stock as shall have been issued on or before November 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of November, 1914.

DECISION NO. 1955.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO ISSUE FIRST REFUNDING MORTGAGE BONDS SUFFICIENT TO NET TWO MILLION FIVE HUNDRED AND FORTY THOUSAND FIVE HUNDRED AND FIFTY-ONE DOLLARS AND FOUR CENTS.

Application No. 1406.

Decided November 23, 1914.

Applicants authorized to issue their first refunding mortgage bonds of the face value of $2,614,000.00, to be sold at not less than 91.0388 covering expenditures made for extensions and betterments during the period January 1, 1913, and June 30, 1914.

Guy Shoup, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Southern Pacific Railroad Company, in the application herein, states that it has expended from income between January 1, 1913, and June 30, 1914, the sum of $2,540,651.04 for the acquisition of property and the construction of additional lines and facilities. It asks for authority to issue sufficient of its first refunding mortgage bonds to be sold on a basis of 91.0388 per cent of par to reimburse it for these expenditures amounting to $2,540,651.04. Southern Pacific Company, as the owner of the stock and the lessee of Southern Pacific Railroad Company, joins in the application.

A matter of similar character was presented to this Commission in Application No. 1340, decided on October 31, 1914, and reference is hereby made to the decision thereon for a description of applicants' properties and of applicants' first refunding mortgage.

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In the application herein Exhibit "A" contains a statement of the expenditures for the fourteen months ending February 28, 1914, for which an issue of bonds is now requested. These expenditures are summarized as follows:

Construction of new lines		$802 23
Additions and betterments:		
Automatic signals		$170,353 79
Tracks		481,409 25
Line changes		47,519 31
Bridges		75,717 91
Buildings		171,254 87
Water stations		49,531 49
Miscellaneous		857,342 95
Right of way and station grounds		119,551 85
Total		$1,972,681 42
Property under mortgage:		
Additions and betterments	$1,972,681 42	
Construction of new lines	802 23	
Total	$1,973,483 65	
Less value of material recovered, adjustments, etc.	195,656 82	
Net expenditures	$1,777,826 83	

The applicants' Exhibit "B" purports to be a statement of expenditures for the four months ending June 30, 1914, for which an issue of bonds is herein requested. This statement may be summarized as follows:

Change of line, Salton Desert		$160,886 68
Additions and betterments:		
Automatic signals		$14,983 63
Tracks		41,833 96
Line changes		10,647 65
Bridges		34,093 07
Buildings		130,657 65
Water stations		36,159 40
Miscellaneous		346,570 27
Right of way and station grounds		21,061 75
Total		$636,007 38
Property under mortgage:		
Additions and betterments	$636,007 38	
Change of line, Salton Desert	160,886 68	
Total	$796,894 06	
Less value of material recovered, adjustments, etc.	34,069 85	
Net expenditures	$762,824 21	

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The application may therefore be condensed as follows:

For reimbursement for expenditures for fourteen months ending February 28, 1914	$1,777,826 83
For reimbursement for expenditures for four months ending June 30, 1914	762,824 21
Total	$2,540,651 04

At the hearing applicant directed the attention of this Commission particularly to the item "Change of line, Salton Desert, $160,886.68." This expenditure was incurred in the period 1907 to 1908. Some question was raised on the part of the Commission at the hearing as to the propriety of this charge, in that it appeared to represent a replacement and not a proper capital expenditure against which bonds should be authorized. The applicants requested authority to withdraw this item, which recasts the application into a request for authority to issue bonds sufficient to yield applicants $2,379,764.36. If sold on the basis of 91.0388 per cent of par, it would be necessary for the applicants to issue bonds to the amount of $2,614,000.00.

The price of 91.0388 is fixed by the applicants because of the provision in the mortgage under which the bonds may be drawn down for not less than the average price for which bonds of the same issue shall have been sold on the New York Stock Exchange during the previous calendar month. As the New York Stock Exchange has been closed since July, the applicants have taken July as the month to determine the price.

From the evidence presented in this case, I believe the expenditures from income reported by the applicants herein were made for proper capital purposes, as defined under the Public Utilities Act, and I believe the applicants, therefore, should be given authority to issue bonds in sufficient amount to reimburse them for this expenditure.

I recommend, therefore, that the application be granted and submit the following form of order:

ORDER.

Southern Pacific Railroad Company and Southern Pacific Company having applied to this Commission for authority to issue $2,614,000.00 of first refunding mortgage bonds, and a hearing having been held and it appearing that the purposes for which the applicants herein propose to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Southern Pacific Railroad Company and Southern Pacific Company be granted authority and they are hereby granted authority to issue $2,614,000.00 of first refunding mortgage bonds under the mortgage and deed of trust between the applicants herein and the Equitable Trust Company of New York, trustee, dated January 3, 1905, a copy of which has been filed in connection with

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Application No. 1340, to which reference is hereby made, said bonds being guaranteed by Southern Pacific Company.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be sold so as to net the applicants herein not less than 91.0388 per cent of the par value of said bonds plus accrued interest.

(2) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

(3) The authority herein granted shall apply to such bonds as shall have been issued on or before November 16, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of November, 1914.

Decision No. 1956.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR APPROVAL OF A LEASE OF RAILROAD EQUIPMENT AND FOR AN ORDER AUTHORIZING THE ISSUE OF EQUIPMENT TRUST CERTIFICATES IN THE AMOUNT OF ONE MILLION ONE HUNDRED AND SEVENTY THOUSAND DOLLARS.

Application No. 1413.

Decided November 23, 1914.

Application of the Southern Pacific Company to enter into an agreement to lease certain car equipment and to issue $1,170,000.00 of 4½ per cent equipment trust notes, covering balance of cost of such equipment, such notes to mature serially over a period of ten years in amounts of $117,000.00 yearly, granted.

Guy Shoup, for Applicant.

Report of the Commission.

Loveland, *Commissioner.*

Southern Pacific Company herein makes application to this Commission for approval of a certain lease of railroad equipment, dated December 1, 1914, providing for the issue of $1,170,000.00 of 4½ per cent ten-year equipment trust certificates maturing annually in equal installments, from December 1, 1915, to December 1, 1924. These equipment trust certificates are to be guaranteed unconditionally by Southern Pacific Company, both as to interest and as to principal.

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Southern Pacific Company proposes to acquire the following equipment:

15	Mikado passenger locomotives at $19,969.30	$299,539 50
5	Mikado passenger locomotives at $20,054.76	100,273 80
10	Switching locomotives at $12,112.94	121,129 40
30	Steel passenger coaches at $10,653.00	319,590 00
20	Steel passenger coaches at $10,671.00	213,420 00
16	Electric motor coaches at $15,500.00	248,000 00
6	Electric motor coaches at $15,550.00	93,300 00
2	Electric motor combination coach and express cars at $15,400.00	30,800 00
	Total	$1,426,052 70

The applicant proposes to pay approximately 15 per cent of the purchase price of this equipment in cash, leaving a balance of $1,170,000.00.

It is proposed by Southern Pacific Company to enter into a lease of the said equipment heretofore described, with Commercial Trust Company of Philadelphia, and to enter into an agreement with Harry E. Righter and William L. Fry as the vendors of this equipment, and with Commercial Trust Company of Philadelphia, as trustee. Copies of this lease and agreement have been filed with this Commission in connection with the application herein as Exhibit "A," to which reference is hereby made.

Under the terms of this lease and agreement the title to the equipment will rest with Commercial Trust Company of Philadelphia, and Southern Pacific Company will acquire the equipment through lease. The unpaid balance of $1,170,000.00 upon the purchase price of the equipment will be met through an issue of Southern Pacific equipment trust Series C certificates. These certificates will carry dividend warrants at the rate of 4½ per cent per annum, payable June 1st and December 1st, the certificates maturing serially in amounts of $117,000.00 every year for ten years, beginning December 1, 1915.

The certificates will be callable on December 1, 1919, or on any June 1st or December 1st thereafter, at 102½ per cent of par. The certificates will be guaranteed by Southern Pacific Company.

The lease provides for rental payments by Southern Pacific Company which shall be equal to the annual installments and the dividend warrants of the equipment trust certificates.

The Southern Pacific may purchase the equipment under certain conditions, and provision is made by which the Southern Pacific assumes title after the payment of the principal of the equipment trust certificates.

Heretofore, in Application No. 484, Southern Pacific Company applied to this Commission for authority to enter into an agreement providing for an issue of its equipment trust certificates, Series A. Thereafter, in Application No. 728, Southern Pacific Company applied to this Commission for authority to enter into an agreement and lease

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providing for the issue of its equipment trust certificates, Series B. Reference is hereby made to said applications and the orders of this Commission thereon. The lease and agreement filed in connection with the present application as Exhibit "A" are substantially in form, and in most material essentials, similar to the leases and agreements under which this Commission authorized Southern Pacific Company to issue its equipment trust certificates, Series A and Series B. Reference is hereby made to the opinions and orders of this Commission authorizing said equipment trust certificates for the details of said leases and agreements.

The lease and agreement herein proposed differ from those submitted in connection with the issue of applicant's equipment trust certificates, Series A and Series B, in that the present proposal provides for the payment in cash of 15 per cent of the purchase price of the equipment, and does not obligate Southern Pacific Company to pay the federal income tax for the benefit of the holders of said certificates, whereas the leases and agreements under which applicant's equipment trust certificates, Series A and Series B, were issued, provided for the payment in cash of 10 per cent of the purchase price of the equipment and did not absolve the applicant from the payment of the federal income tax for the benefit of the holders of said equipment trust certificates, Series A and Series B.

It is clear that applicant needs the additional locomotives and passenger coaches which it herein proposes to acquire. The Southern Pacific will lease the electric equipment which it now proposes to acquire, to Pacific Electric Railway Company, which is one of applicant's subsidiaries.

Applicant asks for authority to sell its equipment trust certificates, Series C, on a basis which, with interest warrants, discounts, commissions, etc., will make the interest charge 5.75 per cent, on the basis of the average maturities of said equipment trust certificates.

I recommend that the application be granted and submit the following form of order:

ORDER.

Southern Pacific Company having applied to this Commission for an order authorizing it to enter into a lease of railroad equipment from Commercial Trust Company of Philadelphia, and to enter into an agreement with Harry E. Righter and William L. Fry and Commercial Trust Company of Philadelphia, said proposed lease and said proposed agreement being both dated December 1, 1914, and a copy of said lease and a copy of said agreement having been filed in connection with the application herein and marked Exhibit "A";

And Southern Pacific Company having applied to this Commission for an order authorizing it to guarantee an issue of equipment trust

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certificates, Series C, the issue of which is provided for under the terms of said lease and agreement, dated December 1, 1914, said equipment trust certificates, Series C, to aggregate in principal $1,170,000.00, to bear dividend warrants at the rate of 4½ per cent per annum, payable on the first day of June and the first day of December of each year, said certificates to mature in ten equal installments, payable respectively on December 1st of each year, from December 1, 1915, to December 1, 1924, inclusive, a form of said equipment trust certificates and of the guarantee of Southern Pacific Company thereon being contained in said copy of agreement; and Southern Pacific Company having applied also for authority to issue said equipment trust certificates and to pay discounts and commissions which, with the 4½ per cent dividend warrants, shall amount not to exceed 5.75 per cent, on the basis of the average maturities of said equipment trust certificates;

And a hearing having been held upon said application and it appearing that the equipment to be obtained by Southern Pacific Company under the terms of said lease and said agreement is reasonably required in the conduct of its business, and that the proceeds of said car equipment trust certificates are not reasonably chargeable to operating expenses or to income.

It is hereby ordered that the application be and it is hereby granted, subject to the following conditions:

(1) Southern Pacific Company shall keep separate, true and accurate account, showing the receipt and application in detail of the proceeds of said car equipment trust certificates, in so far as they affect the equipment to be used by the Pacific Electric Railway Company exclusively within the State of California, and on or before the twenty-fifth day of each month shall make a verified report to this Commission, stating the sale or sales of said equipment trust certificates, with the terms and conditions thereof, the money realized therefrom and the issue and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, but only in so far as applicable, is made a part of this order.

(2) The authority herein granted shall become effective only when the Southern Pacific Company shall have paid the fee prescribed under section 57 of the Public Utilities Act as amended.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of November, 1914.

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DECISION NO. 1957.

IN THE MATTER OF THE APPLICATION OF FRESNO INTERURBAN RAILWAY COMPANY FOR AUTHORITY TO ISSUE STOCKS AND BONDS.

Application No. 1416.

Decided November 23, 1914.

Applicant having previously obtained permission to issue $58,000.00 par value of stock and $110,000.00 face value of bonds for the purposes of constructing a line of railway between Fresno and Clovis, a distance of nine miles, now proposes to construct a railway from Fresno to Centerville with a branch line to Clovis, a distance of twenty-six miles and accordingly applies for permission to issue $212,500.00 par value of common stock, $350,000.00 par value of preferred stock and $350,000.00 face value of bonds for such purposes.

Held, In view of the fact that applicant has not as yet submitted the necessary detailed construction estimates the present order can be considered merely as a preliminary authorization permitting applicant to issue $212,500.00 par value of common stock to be sold at not less than 80; $350,000.00 face value of bonds to be sold at not less than 80; and $350,000.00 par value of preferred stock to be sold at not less than par, said preferred stock to be sold to land owners along proposed right of way and proceeds used to take up applicant's bonds herein authorized. None of such stock or bonds to be issued until applicant shall have complied with the requirements as herein outlined, particularly concerning the issuance of preferred stock and the refunding of bonds with the proceeds thereof, and a supplemental order executed authorizing such action.

C. C. Whittemore and *J. B. Rogers*, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This Commission has heretofore, in the matter of Application No. 1084, authorized Fresno Interurban Railway Company to issue $110,000.00 of bonds and $58,000.00 of stock for the purpose of building a line of railway from Fresno to Clovis, a distance of approximately nine miles. The applicant now comes before the Commission with a revised plan. This revised plan provides for the construction of a line of railway from Fresno to Centerville Citrus District, with a branch to Clovis and another branch to what is known as the "Gould Colony," embracing a total mileage of twenty-six miles. The applicant estimates that it can construct its railway on a basis of $17,300.00 per mile or for a total of $449,800.00.

In order to finance this project, the applicant proposes to issue 2,125 shares of common stock of the par value of $100.00 per share or a total par value of $212,500.00, and to issue $350,000.00 of first mortgage, 6 per cent, twenty-five-year bonds. These securities, sold at 80 per cent of par, would net the applicant $450,000.00. It is also proposed by Fresno Interurban Railway Company to provide for the refunding of the $350,000.00 of bonds through an issue of $350,000.00 of 6 per cent

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cumulative preferred stock, to be sold at par. The applicant proposes to sell this preferred stock to land owners along the line of its proposed railway. The details of this proposal are embraced in a contract, a copy of which has been filed in connection with the present application, as Exhibit "A," to which reference is hereby made.

The necessary detailed engineering data and traffic figures have not been presented for the purposes of this hearing, the applicant desiring that this Commission at this time pass generally upon the form of financing proposed, and thereafter consider in detail the estimates and other detailed information which will be furnished. Any order that may be issued in this case must be, therefore, merely preliminary. A final determination of the issues will require further hearing and supplemental orders.

The contract under which the applicant proposes to sell its preferred stock contemplates the purchase of this stock by land owners along the route of the proposed railway. The stock is to be sold at par; 10 per cent is to be paid within thirty days after the line has been completed to the realty holdings involved; the unpaid portions of the subscriptions are to be secured by liens on the real estate of the subscribers; the remaining 90 per cent of the subscriptions is to be payable within ten years, interest at 6 per cent, payments of all kind to be made to the Mercantile Trust Company of San Francisco, as trustee.

As payments are made, receipts will be issued by the company entitling the subscriber to 6 per cent interest per annum upon the amount of his subscription. The fund thus accumulated through these subscriptions and payments for the preferred stock are to be used first to pay any operating deficits that may arise, and unearned interest on applicant's bonds. The balance thereafter remaining shall, from time to time, be used for the purpose of retiring applicant's bonds. The stock subscription will not be binding unless subscriptions shall be obtained for the entire $350,000.00 of preferred stock.

The contract provides further that any surplus earned by the company shall be used, first, for the payment of the dividends upon the preferred stock, next for the payment of 6 per cent dividends on the common stock, and any sums thereafter remaining shall be applicable to both the preferred and the common stocks.

It is further provided that when the company shall pay to the preferred stockholders their full 6 per cent dividends and, in addition, the par value of their stock, the preferred stock shall be canceled.

The proposed issue of securities as here presented is intended not only to provide for the additional construction necessary to complete the line as now contemplated, but also to refund outstanding stocks and bonds of the applicant.

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It is in testimony that the payments for the preferred stock from land holders whose lands may be directly affected by the construction of the railroad, would amount to approximately $6.00 per acre, whereas it is in testimony that the average present worth of the land from the owners of which subscriptions will be received is $250.00 per acre. It is also in testimony that these holdings would be enhanced in value by the construction of this railway and that marketing facilities would be improved.

This Commission has stated in many decisions its belief that land owners who profit by the construction of new electric lines might properly bear a portion of the burden of their construction. In many instances they may be obliged to look for their reward from the enhanced value of their realty and not from the stock which they obtain. Accordingly, I am prepared to recommend that this Commission approve, in general, the plan as here proposed. At the same time I desire to direct applicant's attention to the fact that many of the matters embraced in its plan of financing should be more definitely and concretely stated.

The amended articles of incorporation should describe accurately the nature of the preferred stock issue. The trust deed should contain specific provisions for the sinking fund, so that bonds may be retired as the preferred stock is issued, the intention being to refund the bonds through the issue of preferred stock. I believe also the contract filed as Exhibit "A" should be amended to the end that no stock should be issued against such portions of the fund as may be used for the payment of operating deficits or for the payment of bond interest.

I recommend also that the form of certificate which the applicant proposes to issue for partial payments upon the stock be wholly in the nature of a receipt and not in the form of a stock certificate.

In recommending the approval, in general, of the plan as presented, I desire that the applicant herein understand that I do so merely as a preliminary authorization, so that it may proceed, if it so elects, to take the subscriptions to its preferred stock.

It will be necessary in a subsequent hearing for this applicant to present full and complete information bearing upon its entire project before a final order will be issued which will authorize the actual issue of the securities herein requested. This was explained to the applicant at the hearing and I believe is well understood. The Commission, by preliminary order in this matter, in no wise commits itself to a favorable determination of the basic issues involved. With this understanding, I recommend that the application be granted and submit the following form of order:

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ORDER.

Fresno Interurban Railway Company having applied to this Commission for authority to issue 2,125 shares of common stock of the par value of $100 per share; $350,000.00 of its first mortgage 6 per cent. twenty-five-year bonds, and $350,000.00 of its 6 per cent cumulative preferred stock,

And a hearing having been held and it appearing that the purposes for which it is proposed to issue the said stock and said bonds are not in whole or in part chargeable to operating expenses or to income,

It is hereby ordered that Fresno Interurban Railway Company be given authority and it is hereby given authority to issue 2,125 shares of the par value of $100 per share, or a total par value of $212,500.00.

It is further ordered that Fresno Interurban Railway Company be granted authority and it is hereby granted authority to issue $350,000.00 of its first mortgage 6 per cent, twenty-five-year bonds.

It is further ordered that Fresno Interurban Railway Company be granted authority and it is hereby granted authority to issue 3,500 shares of its 6 per cent cumulative preferred stock, or a total par value of $350,000.00.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The common stock herein authorized to be issued shall be sold so as to net the applicant not less than $80 per share.

(2) The bonds herein authorized to be issued shall be issued so as to net the applicant not less than 80 per cent of face value.

(3) The preferred stock herein authorized to be issued shall be sold so as to net the applicant not less than the par value thereof.

(4) The common stock and the bonds herein authorized to be issued shall be used for the purpose of refunding, share for share, and bond for bond, 580 shares of stock and $110,000.00 of bonds heretofore authorized by this Commission in Application No. 1084, to be issued by this applicant. The proceeds from the balance of said common stock and said bonds shall be used only as shall hereafter be directed by this Commission.

(5) The $350,000.00 of 6 per cent preferred stock herein authorized shall be used only for the purpose of refunding the $350,000.00 of applicant's bonds herein authorized, in such manner as shall be hereafter approved by this Commission.

(6) The authority herein granted is conditioned upon the submission by the applicant to this Commission and the approval thereof by this Commission of—

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(*a*) Applicant's amended articles of incorporation providing the exact conditions surrounding the preferred stock which applicant proposes to issue.

(*b*) Applicant's mortgage and deed of trust securing its bonds.

(*c*) A modified form of contract for the sale of its preferred stock which shall provide for the issue of preferred stock only for moneys used for paying off applicant's bonds, and which shall eliminate provisions in said contract which now provide that stock may be issued for moneys used to pay operating deficits and bond interest.

(*d*) A form of receipt to be issued by applicant for partial payments for preferred stock.

(7) None of the stock and none of the bonds herein authorized to be issued shall be issued until this Commission shall have issued a supplemental order finding that the applicant herein has complied with all of the conditions enumerated in this order.

(8) The authority herein granted shall apply to such bonds and to such stocks as shall have been issued on or before November 15, 1915.

(9) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of November, 1914.

DECISION NO. 1958.

IN THE MATTER OF THE APPLICATION OF MARIN COUNTY ELECTRIC RAILWAYS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION AND OPERATION OF A STREET RAILWAY SYSTEM IN MILL VALLEY, AND FOR AUTHORITY TO ISSUE STOCKS AND BONDS.

Application No. 947.

Decided November 23, 1914.

Applicant having been granted authority to issue $67,000.00 par value of stock for the purpose of constructing a street railway in the town of Mill Valley, such construction not to begin until $35,000.00 cash has been raised from the sale of said stock, and being unable to raise this amount up to the present time, applicant now proposes to construct the first mile of such railway, giving in payment thereof notes of its stock subscribers, which application is held in abeyance pending the filing of written consent of the various stock subscribers to having their notes given for stock subscriptions transferred in payment for such construction.

Brewster F. Ames, for Applicant.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

FOURTH SUPPLEMENTAL OPINION.

In its decision upon Application No. 947, this Commission authorized the applicant herein to issue 670 shares of capital stock of the par value of $100.00 per share, or a total par value of $67,000.00, for the purpose of constructing an electric line of railway in Mill Valley. The order provided that construction work should not be begun until the applicant had collected $35,000.00 from stock subscriptions. The amount was fixed at $35,000.00, as it was estimated that this sum would construct the first unit of the proposed line from the Northwestern Pacific depot, in Mill Valley, to the Cascades. The applicant has reported that it has subscriptions in excess of $20,000.00.

The applicant now proposes in this supplemental application that it be granted authority to begin the construction work in Mill Valley on private funds, pending the further sale of stock and the receipt of deferred payment on stock subscribed, or as an alternative that it be granted authority to accept the proposal of Hicks-Folte Corporation, which offers to build the first mile of the street railway, and to accept as payment, notes of the stock subscribers. The proposal of the Hicks-Folte Corporation is stated as follows:

November 9, 1914.

Marin County Electric Railways,

320 Market Street, San Francisco, Cal.

GENTLEMEN: I am authorized by the board of directors of this corporation to offer to build the first mile of your proposed Mill Valley street railway, for a sum not to exceed, in proportion to mileage, the amounts allowed by the Railroad Commission for such work in its Decision No. 1377.

We will accept notes of your stock purchasers, installment stock subscriptions, properly assigned to us, and stock of your company as full payment for such work, provided that you will stand the expense of the usual bank discount of 5 per cent.

This offer is subject to acceptance within thirty days from date.

Yours very truly,

C. C. COOK, Secretary.

At the time this application was first presented to the Commission applicant assured the Commission that the total issue of stock asked for could easily be sold. The Commission was then and is still of the opinion that the interest in this proposition must of necessity be local and that it would not be right to permit applicant to begin construction, thereby expending amounts received for stock subscriptions, until a sufficient amount of stock had been sold to be considered as fairly showing that enough could be sold to build the road.

As recited in paragraph I of this fourth supplemental opinion the order therefor provided that construction work should not begin until applicant had collected $35,000.00 from stock subscriptions. Later, applicant represented to the Commission that the building of the road

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from the Northwestern Pacific depot in Mill Valley to the Cascades, or, as it was called, the first unit, would be a matter of great convenience to the people living along the proposed line of road, and permission was granted to applicant to build this first unit, the limitation as to not beginning construction until $35,000.00 had been received from stock subscriptions remaining in effect.

Experience has shown that applicant has been unable to sell the full amount of stock asked for or to sell even the $35,000.00 worth and permission is now requested to build one mile of the road from private funds or to have it built by the Hicks-Folte Corporation, that corporation to accept in payment notes of stock subscribers. This permission the Commission is not disposed to grant unless it can be shown that the notes to be given to Hicks-Folte Corporation or otherwise used in constructing the road, are the notes of subscribers living along the first unit of the road or along the first mile, for which permission is now asked to build, unless subscribers to the stock living along other sections of the proposed road will express a willingness to this Commission, in writing, to have the notes which they have given for stock subscriptions used to build the first mile of the road.

I am not disposed, however, to deny the application as presented, but I shall leave it in abeyance for the present. If the applicant desires to submit a plan for the construction of the entire unit from the Northwestern Pacific depot in Mill Valley to the Cascades under conditions outlined above as to what notes for subscriptions are to be used, this Commission will consider it, and in its order thereon can cover the entire subject, which is partially presented in the supplemental application herein.

The foregoing fourth supplemental opinion is hereby approved and ordered filed as the fourth supplemental opinion of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of November, 1914.

Decision No. 1959.

IN THE MATTER OF THE APPLICATION OF THE LITTLE RIVER REDWOOD COMPANY AND THE NORTHWESTERN PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING SAID PARTIES TO ENTER INTO AN AGREEMENT.

Application No. 1420.

Decided November 23, 1914.

Report of the Commission.

Little River Redwood Company and Northwestern Pacific Railroad Company having applied to this Commission for approval of a certain

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form of agreement to be entered into between said companies, whereby Northwestern Pacific Railroad Company grants to Little River Redwood Company, for the period of five years and under certain specified terms and conditions, certain trackage rights near Little River Junction, between Eureka and Trinidad, which form of agreement is attached to the application in this proceeding and marked "Exhibit A"; and it appearing to the Commission that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby ordered that said application be and the same is hereby granted.

By order of the Railroad Commission.

Dated at San Francisco, California, this 23d day of November, 1914.

DECISION No. 1960.

IN THE MATTER OF THE APPLICATION OF GLENDALE AND MONTROSE RAILWAY (SUCCESSOR TO GLENDALE AND EAGLE ROCK RAILWAY COMPANY), FOR AUTHORIZATION TO ISSUE BONDS IN THE SUM OF ONE HUNDRED AND FIFTY THOUSAND DOLLARS.

Application No. 1046.

Decided November 23, 1914.

Applicant, having previously been authorized to issue $115,000.00, face value, of bonds secured by a mortgage covering all of its property and also including an equity in a certain lot in the city of Los Angeles, now petitions the Commission to amend such mortgage so as to release the lien upon said lot and in lieu thereof Mr. J. Frank Walker, who controls applicant company, agrees to waive interest on $35,000.00 of bonds held by him until applicant's earnings are sufficient to pay interest on all of its bonds and also to guarantee the interest on the balance of such bonds for a period of five years. Application granted.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

THIRD SUPPLEMENTAL OPINION.

This Commission has heretofore, in the above entitled matter, authorized Glendale and Eagle Rock Railway Company (which, having changed its name by decree of the superior court in and for the county of Los Angeles to Glendale and Montrose Railway, will hereafter be referred to as Glendale and Montrose Railway) to issue $115,000.00 of bonds. In the mortgage and deed of trust executed as security for said issue of bonds, the applicant included a lien upon the equity in a certain parcel of real estate on the southwest corner of Ninth and Wall streets, in the city of Los Angeles. Applicant has not issued any of the bonds heretofore authorized by this Commission, and it now proposes to amend its trust deed by eliminating from the security therein provided, the

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equity in said parcel of real estate at Ninth and Wall streets, Los Angeles. In lieu of this, applicant proposes that Mr. J. Frank Walters, president of Glendale and Montrose Railway, to whom the applicant has been authorized to issue $35,000.00 of bonds, shall place these $35,000.00 of bonds in escrow under an agreement by which they shall draw no interest until the Glendale and Montrose Railway shall have earned interest on its bonded debt, excepting these $35,000.00 of bonds, for a period of three years, and shall have earned for a period of one year the interest on its entire bonded indebtedness, including the $35,000.00 to be placed in escrow. In addition, Mr. Walters proposes to guarantee for a period of five years the payment of the interest on applicant's bonds.

The applicant has submitted a written stipulation by Mr. Walters that he will place the $35,000.00 of bonds in escrow and a guarantee running to this Commission for the payment of interest for five years on the bonds to be issued. I believe before this Commission gives its final approval of this matter it should have before it a copy of the escrow agreement to be entered into between Mr. Walters and the trustee and that there should be filed for the approval of this Commission a form of guarantee from Mr. Walters to the trustee for the benefit of the bondholders.

Under all of the circumstances of this case I shall recommend that the application be granted under the conditions stated.

I submit the following form of order:

ORDER.

Glendale and Montrose Railway having applied to this Commission for authority to execute a mortgage of its properties as security for an issue of bonds heretofore authorized by this Commission, in substance and form as set forth in a copy of said proposed mortgage and deed of trust filed by the applicant herein in connection with this application and marked Exhibit "B," to which reference is hereby made,

It is hereby ordered that Glendale and Montrose Railway be given authority and it is hereby given authority to execute a mortgage of its properties substantially in the form of a copy of said mortgage and deed of trust filed with this Commission in connection with the application herein and marked Exhibit "B."

The authority herein given is given upon the following conditions and not otherwise:

(1) The applicant herein shall within ninety days file with this Commission a copy of an escrow agreement to be entered into between Mr. J. Frank Walters and a designated trustee, under which $35,000.00 of bonds to be received by Mr. J. Frank Walters shall be placed in escrow to draw no interest until it shall have been found by this Commission that the railway herein has earned its operating expenses, including

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proper maintenance of roadbed, track and equipment, taxes and interest on outstanding bonds for a period of three years, and that for one year it shall have earned, in addition, interest charges on the $35,000.00 of bonds to be placed in escrow.

(2) Mr. J. Frank Walters shall file with this Commission a copy of a form of guarantee by himself to the trustee for the bondholders, under the terms of which Mr. Walters shall guarantee personally the payment of the interest on the outstanding bonds for a period of five years from the date of issue of said bonds.

(3) The authority herein granted for the applicant to execute the mortgage of its property herein described shall take effect only after this Commission shall have issued a supplemental order finding that the applicant has complied with the conditions herein set out.

The foregoing third supplemental opinion and order are hereby approved and ordered filed as the third supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of November, 1914.

DECISION No. 1961.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ISSUE REFUNDING MORTGAGE FIFTY-YEAR GOLD BONDS UNDER ITS MORTGAGE DATED SEPTEMBER 1, 1911, TO THE AMOUNT OF TWO MILLION NINE HUNDRED AND FORTY-TWO THOUSAND DOLLARS.

Application No. 1417.

Decided November 23, 1914.

Applicant authorized to issue its bonds of the face value of $2,942,000.00, to be sold at not less than 87½, proceeds to be used either to reimburse treasury for additions and betterments already made or to be expended for proposed additions and betterments as set out in certain exhibits accompanying application.

Frank Karr, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Pacific Electric Railway Company for an order authorizing the issue of $2,942,000.00 of bonds.

Applicant operates a large urban and interurban railway system in southern California, and its financial condition has heretofore been investigated on several occasions when application was made for the issuance of securities.

The trust deed under which these bonds are to be issued provides that for bonds issued for the purpose of additions and betterments the trus-

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tee shall authenticate and deliver bonds only upon the deposit with the trustee of cash equal to the principal amount of bonds to be certified, and the cash so received by the trustee shall be paid out upon a showing of an expenditure for purposes of additions and betterments equal to the amount of bonds certified by the trustee.

The result of this provision is that applicant can only dispose of bonds under its trust deed by producing evidence to the trustee of the acquisition of property or the expenditure of money for additions and betterments equal to the face value of the bonds to be issued.

The evidence shows that applicant has expended and proposes to expend in the near future, for additions and betterments, an amount of $2,942,000.00, none of which sum has been heretofore capitalized.

No physical valuation has been completed of applicant's property, and therefore it is impossible to determine with exactness what the relation between the value of applicant's plant and its outstanding obligations is, and I am satisfied that it should at this time be allowed to capitalize the expenditures stated. This is particularly true because the Southern Pacific Company is the parent organization, owning practically all of the outstanding stock of applicant, and it has been the practice, and will be in this instance, to buy the bonds of applicant at not less than 87½ per cent of face value, and thereafter if said bonds should be sold by the parent company and any greater amount is received than this minimum, the difference shall be given to the applicant.

Applicant has borrowed money from time to time to make the expenditures herein asked to be capitalized, and I think, therefore, that the moneys received from the sale of these bonds should be applied to the cancellation of the indebtedness created by the borrowing of the money for those purposes, otherwise there might be both promissory notes and bonds representing the same money. This, of course, will not be true if the original indebtedness is paid off.

Herewith a form of order:

ORDER.

Application having been made by Pacific Electric Railway Company for an order authorizing the issue of $2,942,000.00, face value, of its refunding mortgage fifty-year gold bonds, and a hearing having been had and it appearing to the Commission that the money to be derived from the sale of said bonds is necessary for the purpose of making additions and betterments to the plant of applicant, and of paying off its obligations, and that such proceeds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered, by the Railroad Commission of the State of California, that Pacific Electric Railway Company is hereby authorized to issue $2,942,000.00 refunding mortgage fifty-year gold bonds under the following conditions, not otherwise:

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1. Said bonds shall be issued in pursuance of the terms of that certain mortgage and deed of trust executed by applicant to United States Mortgage and Trust Company, dated September 1, 1911, a copy of which said mortgage and trust deed is on file with this Commission in Application No. 219, reference to which is hereby made.

2. Said bonds shall be sold so as to net applicant not less than 87½ per cent of face value, with accrued interest, at the time of their delivery.

3. The purposes for which the proceeds of the sale of said bonds shall be used are: reimbursing the treasury of applicant for expenditures made for betterments and additions, and for the acquisition and construction of betterments and additions, all as set out in detail in Exhibits 8 and 9, on file herein and attached to the application, reference to which is hereby made.

4. This order is made upon the condition that whenever any of the proceeds of the sale of the bonds herein authorized are used for the purpose of reimbursing applicant's treasury for moneys expended for betterments and additions, that a like amount of the indebtedness of applicant created for the purpose of obtaining money to make such betterments and additions shall be paid off and canceled. The purpose of this provision is to prevent the same money remaining outstanding as an indebtedness and being represented by promissory notes or other evidences of indebtedness in addition to the bonds hereinabove authorized.

5. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the bonds herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of bonds during the preceding month, the terms and conditions of such sale, the moneys derived therefrom and the use and application of such moneys, all as provided in this Commission's General Order No. 24.

6. This order shall not become effective until the fee prescribed in section 57 of the Public Utilities Act, as amended, has been paid.

7. The authority hereby given to issue bonds shall apply only to bonds issued by said company on or before June 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of November, 1914.

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DECISION NO. 1962.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ISSUE EIGHT HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS OF BONDS.

Application No. 1240.

Decided November 25, 1914.

Applicant, proposing to electrize its line of railway, applied for permission to issue bonds of the face value of $825,000.00, and, after check of proposed improvements, applicant is authorized to issue bonds sufficient, if sold at not less than 80, to net the sum of $250,000.00; and applicant also desiring to refund certain indebtedness amounting to $68,500.00, it is authorized to issue bonds of the face value of $375,000.00, to be sold at not less than 80, proceeds to be used to electrize applicant's line and to refund certain indebtedness.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

FIRST SUPPLEMENTAL ORDER.

This Commission, on October 19, 1914, in the above entitled matter having issued an order authorizing applicant herein to sell sufficient bonds to yield it the sum of $250,000.00, said order having been based upon certain conditions therein specified, and applicant now having asked this Commission for a supplemental order authorizing a further issue of bonds to pay off indebtedness due by the applicant to certain banks in the sum of $68,500.00, and applicant having submitted to this Commission, as required in said order, detailed estimates for the electrization of its line of railway,

It is hereby ordered that Los Angeles and San Diego Beach Railway Company be granted authority and it is hereby granted authority to issue $375,000.00 face value of bonds.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The authority herein granted is in substitution for and not in addition to the authorization contained in this Commission's order of October 19, 1914, Decision No. 1888, in the above entitled matter.

(2) The bonds herein authorized to be issued shall be sold so as to net the applicant not less than 80 per cent of the face value thereof, plus accrued interest.

(3) The applicant may pledge the bonds herein authorized to be issued, or any part thereof, in such amounts, at such ratios as shall hereafter be authorized by this Commission.

(4) The proceeds to be derived from the sale of the bonds herein authorized shall be used by the applicant herein for the electrization of its line of railway between San Diego and La Jolla, and for the improve-

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ment of its roadway, track and structures in the sum of $8,160.00, and for the payment of obligations to Mr. Babcock in the sum of $27,909.00, on condition that said sum of $27,909.00 shall be used by Mr. Babcock for the rehabilitation of the railway properties; and for the liquidation of applicant's indebtedness to certain banks in the sum of $68,500.00, or for the liquidation of said indebtedness in the sum of $68,500.00 to the extent that funds may be available under this authorization.

(5) The proceeds from the bonds herein authorized to be used for the electrization of applicant's line of railway shall be used for the following specific purposes:

Item No. 1.	5 quadruple equipment multiple controlled motor cars	$45,000 00
Item No. 2.	2 gasoline cars converted as above	9,000 00
Item No. 3.	4 trailers	22,000 00
Item No. 4.	17.5 miles overhead construction	53,125 00
Item No. 5.	17.5 miles track bonding	8,800 00
Item No. 6.	4 250-kilowatt motor generator sets	23,600 00
Item No. 7.	Feeders (53,000 feet)	6,800 00
Item No. 8.	New shop machinery	4,000 00
Item No. 9.	Station, fireproof, 75 feet by 100 feet, San Diego (2 stories)	17,000 00
	Total	$189,325 00
	Plus 10 per cent for contingencies	18,932 50
	Total	$208,257 50

(6) The bonds herein authorized to be applied toward the liquidation of applicant's indebtedness in the sum of $68,500.00, to certain banks, shall be so applied only after the applicant shall have furnished the Commission with a list of its notes payable in the sum of $68,500.00, and this Commission shall have issued a supplemental order approving the application of the proceeds of said bonds toward the liquidation of said notes.

(7) The bonds herein authorized to be issued shall be issued only after this Commission shall, in writing, have approved applicant's proposed mortgage and deed of trust.

(8) The authority herein granted shall apply to such bonds as shall have been issued on or before November 15, 1915.

(9) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(10) Los Angeles and San Diego Beach Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month, the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application

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of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of November, 1914.

DECISION No. 1963.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING APPLICANT TO SERVE BIGGS RICE AND LAND COMPANY UNDER PERMIT FROM THE CITY OF BIGGS.

Application No. 1400.

Decided November 25, 1914.

Applicant applies for a certificate of public convenience and necessity permitting the construction of a transmission line into the city of Biggs to serve the Biggs Rice and Land Company, the latter company desiring an amount of power in excess of the capacity of the municipal system to supply. Application granted.

H. M. Estes, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application of Oro Electric Corporation for an order authorizing applicant to extend its system for the distribution of electric energy into the city of Biggs, for the purpose of furnishing electric energy for industrial and power purposes only to the premises of the Biggs Rice and Land Company, situated on the east side of First street, between C and E streets, in the city of Biggs.

At the present time the municipal electric plant of the city of Biggs is the only concern supplying electric energy within the city limits. The Biggs Rice and Land Company is about to begin the operation of a large rice factory in the city of Biggs and will require industrial power for its operation to the amount of approximately 200 horsepower, this amount being far in excess of the ability of the municipal lighting plant to supply.

On October 12, 1914, the city trustees of Biggs accordingly adopted a resolution authorizing Oro Electric Corporation to enter the city with its electric lines for the sole purpose of enabling Oro Electric Corporation to furnish electric energy for industrial and power purposes only, for a period not to exceed five years, to the premises of the Biggs Rice

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and Land Company, situated on the east side of First street, between C and E streets, in the city of Biggs. A copy of this resolution is attached to the application herein and marked "Exhibit B."

A public hearing on this application was held on November 23, 1914. I find that the present or future public convenience and necessity require and will require the exercise by Oro Electric Corporation of the rights granted under said resolution and the necessary construction thereunder, and submit herewith the following form of order:

ORDER.

The Oro Electric Corporation having filed with the Railroad Commission its petition for a certificate of public convenience and necessity, as appears in the opinion which precedes this order, and a public hearing having been held on said application,

The Railroad Commission of the State of California hereby finds that the present and future public convenience and necessity require and will require the exercise by Oro Electric Corporation of the rights granted by resolution of the board of trustees of the city of Biggs on October 12, 1914, a copy whereof is attached to the petition herein marked "Exhibit B," and the necessary construction thereunder. The scope of this declaration shall not extend beyond the scope of said resolution.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of November, 1914.

DECISION No. 1964.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF SANTA CLARA COUNTY, CALIFORNIA, FOR PERMISSION TO OPEN A PUBLIC ROAD IN ROAD DISTRICT NO. 1 OF SAID COUNTY, PROPOSED ROAD TO CROSS THE RIGHT OF WAY AND TRACKS OF SOUTHERN PACIFIC COMPANY AT TENNANT, SANTA CLARA COUNTY, CALIFORNIA.

Application No. 1377.

Decided November 25, 1914.

Application of the county of Santa Clara to construct a certain highway known as Tennant avenue across the tracks of the Southern Pacific Company at grade, granted, expense of such construction to be borne by applicant.

J. G. McMillan, for Applicant.

W. H. Phels, for Southern Pacific Company.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was filed, and the hearing was subsequently held, in accordance with section 2694 of the Political Code, as revised January 2, 1912, which reads in part as follows:

> Whenever the general route of the road to be abandoned, altered, laid out or constructed is shown by the petition provided for by section 2682 of this code to cross the track or right of way of any railroad or street railroad, the county clerk of the county wherein said petition is filed shall immediately upon the appointment of viewers by the board of supervisors transmit to the Railroad Commission a certified copy of the petition and of the order appointing viewers. Said Commission shall thereupon fix a day for the hearing of said petition and shall give notice thereof to said viewers, to the district attorney and clerk of the board of supervisors of the county wherein said petition is filed, and to the resident owner or agent of the owner of the land over which the proposed road is to run, and said hearing shall be held at the rooms of the board of supervisors of said county. At said hearing the said Commission shall hear the evidence offered as to the crossing of said track or right of way by said proposed road, and shall thereupon determine whether said proposed road shall, if constructed, be constructed across said track at grade, or otherwise, and shall determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation and maintenance, use and protection of said crossing.

It is the intention of the county to open Tennant avenue in a general easterly and westerly direction, across the tracks of the Southern Pacific Company at a station site known as Tennant, where the Southern Pacific has provided station grounds about one hundred and sixty feet wide, a house track and a loading platform. This reservation is now reached from the west by an undedicated road a short distance north of the proposed Tennant avenue and from the east by Tennant avenue, which is now laid out and graded up to the right of way of the Southern Pacific Company. A crossing has been previously installed on this road about seven hundred feet south of the proposed crossing. If this application is granted this latter crossing will be abolished and Tennant avenue will be made a through and straight road from the Monterey road, which is a state highway, on the west, to Foothill avenue on the east.

Southern Pacific Company made no objection to the granting of this application, and inasmuch as the nearest open road to the north is three quarters of a mile distant, the nearest open road to the south is a mile and a quarter distant, and except for the undedicated road previously mentioned there is no means of reaching the reservation of Southern Pacific Company except by the opening of Tennant avenue, I am of the opinion that this application should be granted. The officials of Santa

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Clara County and Southern Pacific Company have expressed themselves as being satisfied to accept the usual division of cost and this will be recommended in the order.

The view of the tracks, in both directions from the crossing, is good, and no protection is needed other than the usual crossing sign.

I recommend the following form of order:

ORDER.

Board of supervisors of Santa Clara County, California, having on October 16, 1914, filed with the Commission an application for permission to construct a crossing at grade over the tracks of Southern Pacific Company at Tennant avenue, at a point more particularly described in the application and shown on the map accompanying same; and said application being accompanied by a certified copy of the petition asking for the opening of the crossing, and of the order appointing viewers; and a public hearing having been held at San Jose on November 24, 1914, and the Commission being fully apprized in the premises as outlined in the opinion,

It is hereby ordered that this application be and the same is hereby granted, subject to the following conditions, viz:

(1) The entire expense of constructing the crossing at grade shall be borne by applicant.

(2) The expense of maintaining the crossing thereafter in good and first class condition for the safe and convenient use of the public shall be borne by applicant up to within two (2) feet of the outside of the rails of Southern Pacific Company.

(3) Southern Pacific Company shall maintain said crossing across and between its tracks and to within two (2) feet outside thereof.

(4) Said crossing shall be constructed of a width to conform to the width of the proposed Tennant avenue, with grades of approach not exceeding six (6) per cent, and shall be ballasted with first class stone or gravel ballast to a depth of not less than six (6) inches, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(5) The present crossing of the tracks on the station reservation at Tennant shall be closed and abandoned as a public highway crossing.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of November, 1914.

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DECISION No. 1965.

MACEY LEAKE ET AL.

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 614.

Decided November 25, 1914.

Complainants allege that the present rates of defendant company on pine and rough oak wood from Willits, Outlet, Arnold and Longvale to San Francisco, Petaluma and Santa Rosa, are unjust and excessive, basing their principal reasons upon the fact that rates on the same commodity on other carriers are considerably lower, and accordingly petition the Commission to fix a just and reasonable rate for this particular service.

Held, That the method of complainants of basing their claim that the present rates are unjust merely on a comparative basis with similar rates of other carriers moving a considerably larger tonnage a greater distance is erroneous and leads to unfair results.

Held, That considering a number of other rates of defendant company on commodities of far greater value than wood the wood rates are considerably out of line, necessitating a number of adjustments. Defendant directed to place in effect within twenty days from points named a rate of $2.75 per cord to San Francisco, $2.00 per cord to Petaluma and $1.75 per cord to Santa Rosa. Defendant directed to make certain other necessary adjustments in its wood rates in accordance with the rates herein established.

J. C. Ewing, for Complainants.

Lilienthal, McKinstry & Raymond and *Albert Raymond*, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

The complainants in this case attack as unreasonable and excessive the rates on pine and rough oak wood from Willits, Outlet, Arnold and Longvale to San Francisco, Petaluma and Santa Rosa.

The rates alleged to be excessive on pine and rough oak wood from points mentioned are as follows:

From—	To—	Rate per cord
Willits Outlet Arnold Longvale	San Francisco	$3 25
Willits Outlet Arnold Longvale	Petaluma	2 50
Willits Outlet Arnold Longvale	Santa Rosa	2 00

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The rates which the complainants allege to be reasonable are:

From—	To—	Rate per cord
Willits Outlet Arnold Longvale	San Francisco	$2 00
Willits Outlet Arnold Longvale	Petaluma	1 75
Willits Outlet Arnold Longvale	Santa Rosa	1 50

The defendant enters a general denial of the allegations contained in the complaint and prays for a dismissal.

The burden of the complaint is to the effect that the rates on wood from points on the Northwestern Pacific Railroad set forth in the complaint are greatly in excess of the rates on wood from points on the Western Pacific Railway and for this reason the purchasers of wood along the Western Pacific Railway have a monopoly of the business of San Francisco and the cities around San Francisco Bay.

Some testimony was given concerning the rate on peeled oak which is 25 cents per cord higher to San Francisco than rough oak and pine, but no allegation in the complaint is made concerning the unreasonableness of this rate.

One of the complainants testified that the demand for wood had materially decreased, which he attributed to competition from other sources of supply due to lower freight rates maintained by other railroads. Defendant, however, contended that this decrease in the demand for wood was largely due to the use of fuel oil which had supplanted wood in many industries. These several contentions may or may not be true, but they have little material bearing in this proceeding.

The sole question before the Commission is whether or not the rates maintained by the defendant carrier are in and of themselves excessive and unreasonable.

Some discussion was indulged in at the hearing concerning other wood rates, and because of numerous informal complaints which have been received from time to time regarding the same, I notified the officials of the defendant company that the Commission would expect them to justify the general adjustment of wood rates on the line of the Northwestern Pacific Railroad at a subsequent hearing, otherwise the Commission would institute an investigation on its own motion into the reasonableness of these rates.

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I realize that an order can not be entered at this time with reference to any rates other than those specifically called into question by the complaint, but will recommend such adjustments as I believe should be made between those points not specifically complained of.

One witness for the complainants testified that the present rate adjustment from Willits to Alameda prevented him from competing with wood from points on the Western Pacific Railway. It appears that the wood of this witness is forwarded from Willits to Tiburon, where it was loaded on to a barge owned by the witness and towed to a point near his yard at Alameda. The testimony of this witness was to the effect that it costs $1.25 per ton to barge the wood from Tiburon to Alameda. The freight rate, however, from Willits to Tiburon is $2.50 per cord and was not alleged in the complaint to be excessive or unreasonable.

The same may be said of the testimony of another witness who is in the wholesale wood business, shipping to Berkeley. The rates to Berkeley, like Alameda, depend on the rates to Tiburon, and, as stated before, the rates to Tiburon were not attacked as unreasonable in the complaint. Therefore, we can enter no order concerning the rates to Tiburon whatever.

This whole controversy and all of the evidence introduced by complainants and witnesses in behalf of complainants results from lower rates to consuming markets via other lines of railroad, thereby subjecting the plaintiffs to the competition of wood-producing points over which the defendant has no control whatever.

The Northwestern Pacific Railroad is not responsible for the rates on wood published by the Southern Pacific Company and the Western Pacific Railway Company. If the Western Pacific Railway Company has published a lower scale of rates on wood from points on its line than obtains for similar distances on the Northwestern Pacific Railroad, so that shippers from points on the Western Pacific Railway Company have an advantage in competing markets, this is not the fault of the defendant in this proceeding, and the only value of the rates of the Western Pacific Railway Company is for comparative purposes to determine whether or not those of the Northwestern Pacific Railroad are excessive or unreasonable. Likewise, the rates of the Southern Pacific Company from points a much greater distance from San Francisco than are Willits, Outlet, Arnold and Longvale are lower than the rates charged by the Northwestern Pacific Railroad from these points. Again, as in the case of the Western Pacific Railway Company's rates, we must reiterate that the defendant is not responsible for these lower rates of the Southern Pacific Company and they are only valuable for comparative purposes.

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To be of any value whatever for comparative purposes we must consider the circumstances surrounding the movement of wood from these points on other railroads and then determine whether the circumstances surrounding the movement of wood on the Northwestern Pacific Railroad are similar to such a degree as would warrant the establishment of a similar scale of rates.

The Southern Pacific Company has in effect from Templeton to San Francisco a rate of $3.00 per cord for a distance of 218 miles, and this based on 3,000 pounds per cord, which is the standard estimated weight adopted by the Southern Pacific Company and some other roads, makes a rate of $2.00 per ton. The fact that the Southern Pacific Company can afford to haul wood from Templeton to San Francisco, a distance of 218 miles, for $2.00 per ton, does not by any means prove that the rate of $3.25 per cord or $2.16 per ton based on this same estimated weight from Willits to San Francisco, a distance of 139 miles, is in and of itself unreasonable.

We must consider whether the density of traffic and volume of business of the Northwestern Pacific Railroad compares favorably with that of the Southern Pacific Company, whether trains are operated to the same maximum loading efficiency on one road as on the other, and a multitude of other considerations which enter into the question of whether or not one road may do business as cheaply as another.

The gross earnings of the Southern Pacific Company per mile of road are approximately $14,000.00 and the operating expenses about $8,000.00 per mile of road, leaving net earnings of about $6,000.00 per mile of road, stated in round figures. As against this we have operating revenues per mile of road on the Northwestern Pacific Railroad of $8,681.12, operating expenses per mile of road $6,360.23, or a net operating revenue of $2,320.89. This proves the first point I wish to illustrate, that the earnings per mile of line on the Southern Pacific Company are so much greater, both gross and net, than those of the Northwestern Pacific Railroad that it must be the Southern Pacific Company is in a better position to extend low rates than is the Northwestern Pacific Railroad.

The Southern Pacific Company hauls an average of 430 tons of revenue freight on all of its freight trains, while the average of the Northwestern Pacific Railroad is but 106 tons. The average earnings per freight train mile of the Southern Pacific Company are $5.19, while the Northwestern Pacific Railroad are $3.98. The average loading of a car on the Southern Pacific Company is 17.01 tons, while on the Northwestern Pacific Railroad it is 12.64 tons. The Southern Pacific Company receives an average of $2.69 for each ton of freight handled, the average haul being 220 miles, while the Northwestern Pacific Railroad receives an average of $1.34 per ton for an average distance of 36 miles.

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From these figures it must be apparent that because of the heavier loading of cars, the greater amount of traffic to move and the longer distance the freight is handled, the Southern Pacific Company is able to afford much lower rates at a reasonable profit than is the Northwestern Pacific Railroad with its smaller tonnage, lighter loading of equipment and shorter distances to haul the freight.

I have illustrated these points with particular emphasis for the reason that complaining parties frequently become confused with lower rates on larger systems and expect as low rates on a comparatively small road as exist on larger roads, notwithstanding every element favors the larger system with the greater amount of traffic in making the lower rates.

What has been said with reference to the Southern Pacific Company does not apply with equal force to the Western Pacific Railway for the reason that that line has not yet developed business to the same extent or volume as the Southern Pacific Company, but at the same time it must be remembered that the Western Pacific Railway Company was built as a transcontinental system and to participate in a part of the great transcontinental tonnage now handled by such roads as the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company.

In order, therefore, to determine the reasonableness of rates of any particular line we must take into consideration all of the elements surrounding the movement of traffic on that line and not be guided solely by the rates of railroads differently situated. A basis of rates which might be entirely reasonable on the Southern Pacific Company or The Atchison, Topeka and Santa Fe Railway might be entirely too low on a system such as the Northwestern Pacific Railroad. Likewise, rates on the Northwestern Pacific Railroad which might be reasonable would be altogether too low for a still smaller road such as the Ocean Shore Railway and other small lines similarly situated. If the territory through which a railroad runs produces a small amount of traffic it stands to reason that that road must charge rates high enough to support it, otherwise it will go out of existence. We have noticed several instances where small roads, notwithstanding they handled all the traffic in the territory through which they operated, were compelled to cease operations because no matter how high the rates might be the volume of business could not possibly be sufficient to justify a continuance of operations. For these reasons it must be borne in mind that the Commission must view each proposed freight rate adjustment from the standpoint of its effect on the particular road in question.

As before stated, the controversy hinges to a certain extent on the inability of producers of wood on the Northwestern Pacific Railroad to compete with the producers of wood shipped from points located on other railroads. The functions of this Commission are to prescribe just

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and reasonable transportation rates for the movement over the particular line of railroad involved and in so doing it can not undertake to equalize market conditions. If the wood shippers have been so unfortunate as to locate along a railroad which by reason of its comparatively small tonnage must charge higher rates than other railroads enjoying more business that is a disability which this Commission is not empowered to remove.

We will now consider whether the rates in effect for the transportation of wood via the line of the Northwestern Pacific Railroad are in and of themselves just and reasonable. Having disposed of the question of comparison of rates with other lines the question resolves itself into a consideration as to whether or not the rates on wood are fairly adjusted so as to share only a proper burden of the cost of operating this line of railroad in comparison with the other commodities moved. In other words, considering all of the traffic handled by the defendant carrier, are the rates on wood so high as to burden the wood shippers with an unjust proportion of transportation expenses in order that other commodities may be carried at a lower than a reasonable rate? I believe, in some cases, that there is not a proper adjustment in the rates of the defendant carrier and in some instances the rates on wood bear an improper relation to the rates on other commodities; for instance, the defendant carrier handled 2,253 tons of lumber an average distance of 127 miles, for which it received an average rate per ton of $2.22, average car mile earnings of 37 cents for an average load of 21 tons. It handled 4,982 tons of wood an average distance of 132 miles at an average rate of $1.98 per ton, average car mile earnings of 31 cents with an average load of 20 tons per car.

It can not be denied that of the two commodities lumber is much the more valuable commodity. The transportation risks are much greater on lumber than on wood and we know of no case where a railroad expects or receives a freight rate on wood almost as great as on lumber.

In the report of the Northwestern Pacific Railroad to the Commission covering the movement of wood and lumber for distances between 151 and 200 miles we find that the average rate per ton on lumber is $1.89 for a distance of 151 miles and the car mile earnings 23 cents, while on wood the average rate for 152 miles is $2.16 and the car mile earnings 28 cents. In this latter case the revenue derived by the defendant carrier is even greater on wood than on lumber, a disparity which we can not fail to notice. Other commodities such as horses, cattle, feed and mill stuffs, and some others, move at rates and at such car mile earnings as to convince me that there is not a proper relationship between the rates on the various commodities.

Witness for the defendant admitted that wood is a very low grade commodity; in fact the only commodities moving which might be con-

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sidered of a lower grade are rock, gravel, sand and fertilizer. When questioned as to why in some cases the rate on some of the higher grade commodities were on a basis of as low or nearly so as wood the witness replied that the rates on the commodities other than wood were undoubtedly too low. When asked the reason why lumber in some cases was moving at a rate which produced lower car mile earnings for approximately the same distance and loading per car than wood the witness testified that it was done in order to permit the producers to compete with lumber moving by water. In other words, it has apparently been the practice of this defendant carrier, and we have noted other cases wherein the same policy is followed by other carriers, to make rates so that producers of a commodity on its particular rails might compete with the producers on the rails of other lines or served by water carriers. This is nothing more or less than so-called market competition and the carriers seem imbued with the idea that they may meet market competition as they see fit in some instances and disregard it in others.

My position in this connection is best illustrated by the following extracts from the transcript:

> MR. SANBORN. Q. Now, generally speaking, your lumber rates should be higher than your wood rates, shouldn't they?
>
> MR. GEARY. A. I think so.
>
> MR. SANBORN. Q. What would you say of the movement on lumber moving at 23 cents per car mile for 151 miles as against wood moving at 28 cents a car mile?
>
> MR. GEARY. A. That would be caused by the fact that our rate on wood lumber is made from the producing points on our line down to this end, and that distance in order to allow the producers in our territory to compete with water lumber.
>
> MR. SANBORN. Q. But you don't figure the same way when the wood man meets another wood man from another part of the state; it is all right for the lumber man, but how about the wood man?
>
> MR. GEARY. A. Well, the same competition does not exist.
>
> MR. SANBORN. Q. Well, then, are your rates made on the theory of market competition?
>
> MR. GEARY. A. No, not entirely; it does enter into it.

Here is a plain case where, for some reason, the carrier has found it expedient to carry lumber rates on such a basis as will enable the producers of lumber to meet the competition of lumber producers having other means of transportation, but when the wood shippers along the line of the defendant carrier complain that they can not meet competition of wood shippers from other sections served by different carriers the defendant is not willing to afford the complainants the same kind of relief that has apparently been afforded the lumber shippers. But, as I have before stated in this opinion, this Commission is powerless to compel a carrier to meet this so-called market competition, although it has the right to prevent discriminatory conditions.

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On shipments of wood from the points involved the defendant maintains rates to San Francisco which are 75 cents per cord in excess of the rate to Tiburon, in explanation of which witness for the defendant stated that all wood originally moved to Tiburon and was barged from that point to San Francisco and that when demand was made for deliveries by car to San Francisco direct an additional rate of 75 cents per cord was added to cover this service.

No satisfactory explanation was made as to why the rates on many other commodities moved are the same from and to San Francisco as Tiburon. All of the class rates are on the same basis from both points. The carload rate on wine apparently has not taken into question the additional service from Tiburon to San Francisco, for the rates are the same to both points. From and to points north of Cloverdale the rates on lumber are the same to and from Tiburon as San Francisco. On movements of hay between San Francisco and points south of San Rafael the rate ranges from 20 to 40 cents per ton higher to San Francisco than to Tiburon, but north of San Rafael the difference diminishes and the rates between Cotati and Bellview are only 5 cents per ton greater from San Francisco than Tiburon, while north of Bellview the rates are the same to both points. On shipments of grain the rates are the same to San Francisco and Tiburon from all points except from Healdsburg, where but a 5-cent differential obtains. Other commodities transported by the defendant could be mentioned in a similar manner, but I think enough have been shown to illustrate the point I make.

Why, then, does this defendant single out wood shipments to pay an additional rate to cover the ferry movement and apparently waive it on many other commodities?

Witness for the defendant gave certain figures supposed to represent the cost of transporting freight from Tiburon to San Francisco which, if we accept as accurate, indicates that either the rates to San Francisco are too low or the rates to Tiburon are too high. The railroad certainly performs less service to Tiburon than to San Francisco and, in my opinion, is not entitled to as great revenue on freight destined or transported from Tiburon as from or to San Francisco. I do not venture the opinion which of the two may be too high or too low, for such facts can only be determined by a complete investigation into the entire rate structure.

Sufficient evidence has been introduced to convince me that the wood rates of the Northwestern Pacific Railroad are badly out of line when due consideration is given to the rates covering the movement of all commodities handled by this line.

I am of the opinion and find as a fact from all of the evidence in this case that the rates on pine and rough oak wood from Willits, Outlet,

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Arnold and Longvale to San Francisco, Petaluma and Santa Rosa are and each of them is excessive, unjust and discriminatory and should not exceed the following:

From—	To—	Rate per cord
Willits Outlet Arnold Longvale	San Francisco	$2 75
Willits Outlet Arnold Longvale	Petaluma	2 00
Willits Outlet Arnold Longvale	Santa Rosa	1 75

I believe a general adjustment should be made in the wood rates of the Northwestern Pacific Railroad from and to points not covered by the pleadings in this case but which have been called to the attention of the Commission by informal complaints.

In my judgment the rate to Tiburon from Willits, Outlet, Arnold and Longvale should not exceed $2.25 per cord.

A corresponding adjustment should be made from points on the Sherwood branch.

Informal complaint had been made concerning the rate from Farley, which is based on $1.25 per cord over Longvale. This adjustment is unreasonable and the rates herein found to be reasonable from Longvale should be extended on a normal basis from points beyond.

Attention is also directed to the necessity of some adjustment in the rates from Cloverdale and we will expect the defendant to submit a new schedule of wood rates which will eliminate the inconsistencies mentioned.

I submit the following order:

ORDER.

Macey Leake, Nick Tsarnas, P. W. Manassi, E. N. Fisher, Nick Pomon, George Longland, E. S. Williams, Robert Williams, Mrs. E. Bartow and John E. Tsarnas having filed a complaint with this Commission alleging that rates on wood between various points on the line of the Northwestern Pacific Railroad are unreasonable and a regular hearing having been had and basing its order on the findings of fact which appear in the opinion which precedes this order,

It is hereby ordered that the Northwestern Pacific Railroad publish and file with this Commission within twenty (20) days from the date hereof a schedule containing rates on pine and rough oak wood from Willits, Outlet, Arnold and Longvale to San Francisco of $2.75 per cord,

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Petaluma $2.00 per cord and Santa Rosa $1.75 per cord, which rates are hereby found to be reasonable and established as just and reasonable rates to be charged by the Northwestern Pacific Railroad.

It is further ordered that the Northwestern Pacific Railroad present to this Commission within twenty (20) days from the date hereof proposed readjustment of wood rates in line with the recommendations contained in the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of November, 1914.

DECISION No. 1966.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AUTHORITY TO RENEW CERTAIN PROMISSORY NOTES.

Application No. 1426.

Decided November 25, 1914.

Allen L. Chickering, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Western States Gas and Electric Company having made application to this Commission for authority to issue $45,000.00 in promissory notes to H. M. Byllesby & Company for the purpose of refunding promissory notes of like amount;

And a hearing having been held and it appearing that the purposes for which the applicant proposes to issue said promissory notes are proper purposes as defined by the Public Utilities Act,

It is hereby ordered that Western States Gas and Electric Company be granted authority and it is hereby granted authority to issue promissory notes in the sum of $45,000.00.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall bear date of December, 1914, and shall be in form and amount as follows:

$5,000.00 payable December 11, 1915, rate of interest 6 per cent per annum.
$10,000.00 payable December 11, 1915, rate of interest 6 per cent per annum.
$15,000.00 payable December 11, 1915, rate of interest 6 per cent per annum.
$15,000.00 payable December 13, 1915, rate of interest 6 per cent per annum.

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(2) The notes herein authorized to be issued shall be used for the sole purpose of refunding notes in the sum of $45,000.00, payable to H. M. Byllesby & Company, maturing in December, 1914.

(3) The authority herein granted shall apply to such notes as shall have been issued on or before March 1, 1915.

(4) The applicant herein shall report to this Commission within thirty days after the notes herein authorized to be issued have been issued, stating that such notes have been issued and stating the note or notes canceled or refunded.

(5) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

Dated at San Francisco, California, this 25th day of November, 1914.

DECISION No. 1967.

F. F. ASH ET AL.

vs.

SOUTHERN CALIFORNIA EDISON COMPANY.

Case No. 702.

Decided November 25, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainants having on November 24, 1914, made written request to this Commission that the complaint in the above entitled proceeding be dismissed,

It is hereby ordered that the complaint in said case be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 25th day of November, 1914.

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DECISION No. 1968.

DEL PASO HEIGHTS IMPROVEMENT CLUB

vs.

NORTHERN ELECTRIC RAILWAY COMPANY.

Case No. 693.

Decided November 27, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant herein having filed with this Commission a petition that the above entitled proceeding be dismissed,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 27th day of November, 1914.

DECISION No. 1969.

IN THE MATTER OF THE APPLICATION OF HALF MOON BAY LIGHT AND POWER COMPANY FOR PERMISSION TO INCREASE ITS RATES FOR SERVICE SUPPLIED TO E. B. AND A. L. STONE COMPANY.

Application No. 429.

Decided November 27, 1914.

Applicant, Half Moon Bay Light and Power Company, operating an electrical distributing system in certain portions of San Mateo County having entered into a contract to deliver electrical energy to the E. B. and A. L. Stone Company for power purposes at 1¼ cents per kilowatt hour for the first 10,000 kilowatt hours and 1½ cents per kilowatt hour in excess of 10,000, with a minimum payment of $12.00 per horsepower per year, claims that such rate is noncompensatory and petitions the Commission for permission to increase same.

Held. That though the Commission has the power to alter contracts when in its judgment such alteration is necessary, it has no desire to interfere with contracts entered into with a full knowledge of their provisions by the contracting parties, though in cases when such contracts are unjust or exorbitant to the consumer or so low as to be unduly burdensome to the other consumers of a utility who must of necessity pay a rate out of proportion to their just share to equalize the difference in the utility's income, such adjustments as may be deemed proper must be made.

Held. That the present power rates of applicant are unduly low and noncompensatory, and it is authorized to put into effect a rate for industrial plants of 200 or more horsepower a demand charge of $4.50 per rated horsepower of connected load per year plus 1.1 cents per kilowatt hour; for industrial plants of 50 to 200 horsepower a demand charge of $8.50 per rated horsepower of connected load per year plus 1.3 cents per kilowatt hour.

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John O. McElroy and *Allan P. Matthew*, for Applicant.
Heller, Powers & Ehrman, for E. B. and A. L. Stone Company.

REPORT OF THE COMMISSION.

THELEN and LOVELAND, *Commissioners.*

This is an application by Half Moon Bay Light and Power Company, hereinafter called the power company, to increase the rates at which electric energy is supplied to E. B. and A. L. Stone Company, hereinafter called the Stone Company. The Stone Company operates a quarry at Rockaway and a sand plant at Pilarcitos, both in San Mateo County, California. Electric energy is at present served by the power company to the Stone Company under a contract entered into on or about May 17, 1912. In this contract the power company agreed to supply the Stone Company with electric energy for a period of six years. The rates named in the contract are 1¼ cents per kilowatt hour for the first 10,000 kilowatt hours and 1½ cents for all current consumed in excess of 10,000 kilowatt hours during any one month, subject to a minimum payment of $12.00 per year for each horsepower of motor capacity installed. These are the rates which applicant has on file for industrial plants with an installation of 200 or more horsepower.

Applicant asks that in lieu of this schedule the following rates be put into effect and be made applicable to the Stone Company:

(1) Rates applicable to industrial plants with an installation of 50 horsepower to 200 horsepower.
Demand charge $1.00 per horsepower per month, plus energy charge 1.75 cents per kilowatt hour.
(2) Rates applicable to industrial plants with an installation over 200 horsepower.
Demand charge $1.00 per horsepower per month, plus energy charge 1.125 cents per kilowatt hour.

In asking the Commission to authorize applicant to charge the Stone Company rates in excess of those specified in the contract applicant alleges that the contract rates are noncompensatory; that they do not pay the actual out of pocket cost incurred in supplying electric energy to the Stone Company; that the contract was made with a misunderstanding of its effect and that the power company would never have entered into the contract had it realized that the rates therein specified were noncompensatory. The Stone Company appeared in opposition to the application, claiming that it has, at great expense, in reliance upon this contract, altered its plant from a gas engine installation to an electric service; that a raise in the contract rate will require an abandonment of this electric service; that contracts have been made for the sale of rock and sand at prices which were based on the existing

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contract rate for power; that the contract for power was made at arm's length, and that it will be a great hardship on the Stone Company if the power company is allowed to increase its rates as requested.

This Commission has jurisdiction in proper cases to alter or modify the rates at which a public service company has contracted to supply service. If the contract rates are unreasonably high the Commission has the power to direct that service be supplied at a less rate. Likewise, if the contract rates are unreasonably low the Commission has the power to authorize an increase in those rates. The Commission will, however, be slow to alter a contract rate when the contract has been entered into at arm's length and in absolutely good faith. In such cases it must be conclusively established that the contract rate is either noncompensatory or excessive. In the present proceeding the equities of the parties are before the Commission and are unquestionably in favor of the Stone Company. So far as proper this fact will be given consideration in determining the rates to be charged that company. No individual rate should be allowed to stand, however, if it is so low as to unjustly burden the remaining consumers.

Half Moon Bay Light and Power Company operates an electric transmission and distribution system along the coast of San Mateo County. The company was incorporated on May 18, 1911, and began to supply electric energy about July 1, 1912. This company purchases its electric energy from the Great Western Power Company. The company has a transmission line of approximately twenty-one miles in length traversing a sparsely settled country. Distribution lines tap this main transmission line to supply consumers along the length thereof. At Rockaway and at Pilarcitos the power company has installed certain equipment which is used solely in distributing electric energy from the main transmission line to the plants of the Stone Company at these points. In this proceeding it is necessary to consider, first, the transmission investment and the operating expenses incident thereto; second, the distribution investment used solely to supply the Stone Company and the operating expenses incident thereto, and third, the cost of electric energy delivered to the Stone Company.

At the hearing applicant introduced an appraisal of its properties which gives the reproduction cost new as of July 31, 1913, at $62,077.50. There was later filed a statement of additions and betterments made from August 1, 1913, to and including July 31, 1914, which aggregates $7,755.37, making a total valuation on July 31, 1914, as estimated by applicant, of $69,832.87.

The Commission's engineering department has made a careful analysis of this appraisal. Applicant has included in its appraisal $844.05 representing the cost of a transmission system from Colma to Daly City, which system, according to the record in the case, has never

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been in operation. Applicant has figured overhead charges on a basis of 25 per cent of the physical properties. We believe that not more than 15 per cent should be allowed for this item. Except for a few minor changes in unit costs, the detailed estimates presented by applicant have been accepted with the modifications above mentioned. The appraisal as modified may be summarized as follows:

TABLE I.

Summary of Appraisal.

Transmission:		
Poles and fixtures	$9,445 00	
Overhead system	7,727 00	
Rights of way	661 00	
		$17,833 00
Distribution		39,344 59
General Capital:		
Furniture and fixtures	$334 34	
Tools, materials and supplies	500 00	
Auto equipment	1,431 61	
Franchises	583 00	
Working capital	3,348 78	
Development expenditure	3,000 00	
		9,197 73
Grand total		$66,375 32

The following allowances for operating expenses are those submitted by applicant for the year 1913, with the exception hereinafter noted:

TABLE II.

Operating Expenses.

(1) Distribution expenses and repairs to capital	$1,907 51
(2) Commercial department, labor, supplies and expenses	872 22
(3) Salaries and expenses of general officers	3,051 35
(4) Miscellaneous general expense	1,000 00
Total	$6,811 08

Applicant allowed for item number (4) "miscellaneous general expense" $2,555.34. This sum consisted chiefly of legal expenses, which we believe will not amount to this figure in the future. We have, accordingly, allowed $1,000.00 for this item and believe this to be entirely adequate. The sum of these operating expenses should be apportioned to the respective elements of service as follows:

TABLE III.

Apportionment of Operating Expenses.

Transmission service	$1,077 76
Distribution service	2,377 85
Consumers	3,355 47
Total	$6,811 08

We desire, first, to consider the proper rate to be charged for supplying electric energy to the Stone Company to operate the Rockaway

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quarry. In accordance with the procedure above outlined we determine the transmission cost for the entire system to be $3,704.36, which sum includes a return of 8 per cent upon the transmission investment, an allowance for depreciation and the proportion of the operating expenses properly chargeable to the transmission service.

If this total transmission cost is prorated upon a demand basis the Rockaway quarry is chargeable with $776.64 thereof.

The physical investment represented in the distribution service at Rockaway is $2,201.05, to which we have added $354.07, representing the general capital apportioned to the Rockaway plant on an investment basis. A return of 8 per cent upon this investment, together with a proper allowance for depreciation and operating expenses amount to $381.05.

The consumer cost obtained, as outlined above, amounts to $15.37 per consumer, which charge should be included in the total cost of service to the Rockaway plant. The sum of the above elements of cost must be further increased to cover a proper allowance for taxes upon a basis of 4.6 per cent of the gross revenue. The total cost of service to the Rockaway plant, exclusive of the cost of the energy, amounts to $1,229.62 per annum, or $4.384 per horsepower of connected load.

The electric energy sold to the Stone Company is purchased at the rate of nine tenths of a cent per kilowatt hour. Making proper allowance for line loss, transformer loss and taxes, we find that the cost of electric energy for the Rockaway plant is 1.1106 cents per kilowatt hour.

In order that the power company may receive from the Rockaway plant the revenue to which we find it is entitled, we recommend that the power company be authorized to put into effect for the Rockaway plant, and for all industrial plants having an installation of 200 more horsepower, the following rate:

> Demand charge, $1.50 per rated horsepower of connected load per year, plus
> Energy charge, 1.1 cents per kilowatt hour.

The proper rate to be charged for electric energy furnished at the Pilarcitos sand plant may be determined in the same manner as that followed with reference to the Rockaway plant. The rate to the Pilarcitos plant, however, will be higher than the Rockaway rate, due to a higher demand factor, higher distribution investment per unit of connected load and poorer load factor. The $3,704.36 total transmission cost prorated to the Pilarcitos plant upon a demand basis amounts to $118.04. The distribution investment chargeable to the Pilarcitos plant is $1,765.60. Interest at 8 per cent and proper depreciation upon this investment amounts to $187.84, to which should be added $91.92, being distribution operating expenses prorated to the Pilarcitos plant upon an investment basis. The distribution cost chargeable to this plant aggregates $279.76. Adding the consumer charge of $15.37 and proper allow-

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ance for taxes we obtain a total of $433.09, equivalent to $8.6618 per horsepower of connected load.

The cost of electric energy furnished this plant, if figured in the same manner as that followed in the Rockaway calculation, amounts to 1.2845 cents per kilowatt hour.

In order to return to the power company the revenue to which it is entitled from the Pilarcitos plant we recommend that the power company be authorized to put into effect the following rates for the Pilarcitos plant and for all industrial plants with an installation of 50 to 200 horsepower:

Demand charge, $8.50 per rated horsepower of connected load per year, plus
Energy charge, 1.3 cents per kilowatt hour.

We submit herewith the following form of order:

ORDER.

This proceeding having come on regularly for hearing and the Commission being duly advised in the premises,

The Commission hereby finds as a fact that the rates at which Half Moon Bay Light and Power Company is serving electric energy to E. B. and A. L. Stone Company to operate a quarry at Rockaway and a sand plant at Pilarcitos, are unreasonably low and noncompensatory, and that the rates which the Half Moon Bay Light and Power Company has on file with this Commission for service of electric energy to industrial plants with an installation of 200 or more horsepower are unreasonably low and noncompensatory.

The Commission further finds as a fact that the following are just and reasonable rates to be charged by applicant for the supply of electric energy in the cases mentioned:

(1) For service of electric energy to E. B. and A. L. Stone Company at Rockaway, San Mateo County, California, and to all industrial plants with an installation of 200 or more horsepower:
Demand charge, $4.50 per rated horsepower of connected load per year, plus
Energy charge, 1.1 cents per kilowatt hour.

(2) For service of electric energy to E. B. and A. L. Stone Company to operate a sand plant at Pilarcitos, San Mateo County, California, and to all industrial plants with an installation of from 50 to 200 horsepower:
Demand charge, $8.50 per rated horsepower of connected load per year, plus
Energy charge, 1.3 cents per kilowatt hour.

It is hereby ordered that Half Moon Bay Light and Power Company be and it is hereby authorized to put into effect from the date of this order the rates last above mentioned.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of November, 1914.

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DECISION No. 1970.

KLEIN-SIMPSON FRUIT COMPANY

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, REFRIGERATOR DISPATCH COMPANY AND NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 524.

Decided November 27, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

On July 20th this Commission issued an order reopening this case and held a hearing therein at Los Angeles on Monday, July 27th. No new evidence was presented at that time, but the Commission's attention was directed to an apparent error in its former order in this matter issued on June 29, 1914. It was intended by the order to afford shippers the opportunity to initially ice shipments of eggs from Petaluma to Los Angeles if they so desired, and not to place upon them exclusively the duty of so doing in cases where icing was desired; therefore, the order should be amended to properly express the intention, and changed to read: "shippers *may* provide for the initial icing of eggs from Petaluma to Los Angeles," and

It is hereby ordered that the order of this Commission heretofore made in this proceeding on June 29, 1914, be and the same is hereby amended to provide that "shippers *may* provide for the initial icing of eggs from Petaluma to Los Angeles."

Dated at San Francisco, California, this 27th day of November, 1914.

DECISION No. 1971.

JAMES M. SHARP

vs.

SWEETWATER WATER COMPANY.

Case No. 568.

Decided November 30, 1914.

Complainant having constructed at his own expense a 1,600-foot extension from defendant's main to his property and having received water through such extension for a number of years, petitions the Commission to compel defendant company to take over and reconstruct such pipe line so as to adequately serve him with water, to reimburse him the cost of constructing such line and to refund certain portions of water rates heretofore collected.

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Held, That the Commission has no power to compel a utility to take over and operate a plant or portion of a plant not at present under its control nor to direct a refund of charges collected two years before filing of complaint, and considering that complainant has been receiving water at the same rate as other consumers of defendant no refund could be directed in this particular case. In view of the fact that complainant has been and is at present receiving service and that defendant is at present delivering water to its fullest capacity it would be unjust to compel defendant to incur the heavy expense incidental to serving complainant with additional water, complaint therefore dismissed.

Tyndale Palmer, for Complainant.

F. S. Jennings, Hunsaker & Britt, and *A. H. Sweet*, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

Twenty-two years ago complainant constructed a pipe line 1,600 feet long running from the main of defendant to his land. He received water from defendant under a contract which by terms covered a period of five years, and which specified a certain rate for water. Subsequently the federal courts held that complainant was entitled to a continuation of the water service, and defendant has continued to supply him with water at the point where his pipe connects with defendant's mains.

Complainant now asks that defendant reconstruct this pipe line at its own expense and provide adequate water service on his land, and that it be compelled to reimburse him for charges made under the original contract and for service rendered since, which charges it is claimed are unjust and discriminatory. Also for reimbursement for his expenditures in maintaining this 1,600 feet of pipe line.

We can dismiss consideration of the claim for reparation by calling attention to the Public Utilities Act, section 71*b*, which provides:

> "All complaints concerning excessive or discriminatory charges shall be filed with the Commission within two years from the time the cause of action accrues."

Therefore, no consideration can be given to any claim of reparation where the overcharge occurred prior to two years from the filing of the complaint. Complaint was filed March 21, 1914, so that as to all alleged overcharges made prior to March, 1912, this Commission is powerless to act.

Both the allegations in the complaint and the evidence show conclusively that complainant has paid exactly the same rate as other consumers of defendant since 1907. Therefore, it is clear that for all of the time which may be considered by this Commission defendant is on exactly the same basis as all consumers, and in order to hold that he is entitled to reparation it would have to be found by the Commission that all like consumers were entitled to reparation. This, of course, can not

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be done under the evidence in this case, as no attempt was made by complainant to establish any such contention.

There remains to be considered the demand of complainant that defendant reconstruct the pipe line running from its mains to his property. I am of the opinion that the Commission has no power to compel a corporation to take over a specified plant or part of plant and attach the same to its system. Nor do I believe that a corporation can be compelled to repair or reconstruct a pipe line owned by a private individual which may be connected with its system. This being true, applicant stands before this Commission asking for the only thing which he can ask, and that is that defendant be compelled to construct a pipe line from its main to his property some 1,600 odd feet, and thereafter produce on his land or at his land an adequate water supply.

Viewing the matter from this angle, we are confronted with a very serious situation over the whole system of defendant. From the evidence it is a matter of grave doubt whether the present water supply of defendant is adequate to properly serve existing consumers. In fact, from the evidence I would not recommend that any new consumers be added to those already being supplied by defendant. If this company was compelled to build this pipe line and produce service to complainant there could be no good ground upon which a denial of a like extension of service to others situated exactly as complainant is could be made. It is true that complainant is now a consumer of defendant, but he receives his water at the main of defendant and conducts it through his own pipe line to his property.

As the matter now stands the company is only responsible for service at its main, whereas, if complainant's prayer were granted it would become responsible for adequate service at his property. This might result in very heavy additional obligations being placed upon defendant and also might result in a diminution of service to some of the other consumers.

Considering that complainant is already receiving water upon his property I do not believe that he is entitled to any special consideration at this time, and I do not believe a showing has been made which would warrant this Commission in opening the way for new and additional consumers to be added to the system of defendant.

I recommend therefore that the complaint be dismissed and submit herewith the following form of order:

ORDER.

Complaint having been made by James M. Sharp *vs.* Sweetwater Water Company, and a public hearing having been had, and it appearing to the Commission that for the reasons set out in the foregoing opinion said complaint should be dismissed,

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It is hereby ordered, by the Railroad Commission of the State of California, that the complaint herein be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of November, 1914.

DECISION NO. 1972.

IN THE MATTER OF THE APPLICATION OF LONG BEACH CONSOLIDATED GAS COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF THE RIGHTS AND PRIVILEGES UNDER A CERTAIN FRANCHISE GRANTED TO IT BY THE COUNTY OF ORANGE, STATE OF CALIFORNIA.

Application No. 1409.

Decided November 30, 1914.

Applicant granted a certificate of public convenience and necessity authorizing the exercise of rights under a certain franchise permitting the construction of additions to its gas distributing system so as to serve certain territory in and adjacent to Bay City.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Long Beach Consolidated Gas Company for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise granted said company by the board of supervisors of the county of Orange.

Under this franchise applicant will be enabled to add to its gas distributing plant in the unincorporated territory called Bay City so as to furnish an additional area in and adjacent to said Bay City.

There is no utility furnishing a like service in any of the territory described in the franchise and as the gas service to be provided by the plant which will be installed under this franchise will be of real public convenience and use, I recommend that the application be granted.

Herewith a form of order:

ORDER.

Application having been made by Long Beach Consolidated Gas Company for a certificate that public convenience and necessity require the exercise of rights and privileges under a certain franchise, granted to it by the county of Orange, State of California, and a public hearing having been had,

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It is hereby ordered and declared, by the Railroad Commission of the State of California, that public convenience and necessity require and will require the exercise by Long Beach Consolidated Gas Company of rights and privileges under that certain franchise granted said company by the board of supervisors of the county of Orange, State of California, said franchise being granted under Ordinance No. 120, a copy of which is on file with the application herein, marked Exhibit "B," reference to which is hereby made.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of November, 1914.

DECISION No. 1973.

SALINAS CITY

vs.

COAST VALLEYS GAS AND ELECTRIC COMPANY.

Case No. 495.

Decided November 30, 1914.

The Commission having rendered a decision in the above entitled case fixing the rates to be charged by defendant company in the city of Salinas and defendant having subsequently applied for a rehearing, which application was denied with the proviso that the rates fixed for street lighting purposes would be reconsidered provided defendant submitted certain additional data pertaining to that particular service, and such additional data having been submitted and it appearing that the rates previously established for that particular service were not justly compensatory, defendant directed to establish within twenty days the following yearly schedule for all night street lighting service: Arc lamps, 6.6 ampere, $54.00 per lamp; 100 watt street lamps, $21.60 per lamp; 60 watt street lamps, $17.40 per lamp; 40 watt street lamps, $15.00 per lamp, above rate to include all maintenance of such system.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

SUPPLEMENTAL OPINION.

Heretofore, on August 28, 1914, this Commission made its order establishing the rates to be charged by defendant for electric energy sold to the city of Salinas and to the inhabitants thereof. Defendant thereafter applied for a rehearing. In denying a rehearing, this Commission stated that it was in doubt as to whether or not the rate established for street lighting service in the city of Salinas was entirely fair to the defendant. The defendant was accordingly given ten days within which to submit necessary additional information bearing on the cost of this

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service. The rates established for service to the inhabitants of Salinas, as distinguished from the municipality itself, have been filed by defendant, as directed by this Commission, and are now in effect. Within the time allowed defendant prepared and submitted additional data bearing on the cost of street lighting in the city of Salinas, which data has been carefully checked with computations made by the Commission's engineers.

This further investigation into the cost of street lighting service at Salinas has convinced me that owing to the many different classes and sizes of lighting units used by defendant, the rate should be established on a lamp basis rather than upon a connected load basis.

The street lighting rates charged by defendant to the city of Salinas, when the complaint in this case was filed, were as follows:

TABLE I.

Street Lighting.

Salinas.

Arc lights: $7.50 per month each.
For incandescent strings across Main street, $5.00 per night.
(Prices for street lighting include renewals and trimming at the expense of the company.)

The street lighting rates charged by defendant to other municipalities were as follows:

TABLE II.

Street Lighting.

OTHER MUNICIPALITIES.

Monterey.

Arc lights:
First 25, $8.00 per month each.
All over 25, $7.00 per month each.
100 watt incandescent lamps, $2.50 per month.
Electroliers:
First 500 kilowatt hours per month, 5 cents per kilowatt hour.
Second 500 kilowatt hours per month, 4 cents per kilowatt hour.
All over 1,000 kilowatt hours per month, 3 cents per kilowatt hour.

Pacific Grove.

Arc lights:
First 25, $8.00 per month each.
All over 25, $7.00 per month each.
Streamers, $2.00 per night when burned.

King City.

Contract with municipality providing for thirty 100 watt series tungsten lamps and four streamers containing twenty 8-candlepower carbon lamps; 100 watt lamps to be lighted from one hour after sunset until one hour before sunrise daily, and streamers to be lighted for two hours every Saturday night, $75.00 per month.
Provision is made for any increase in 100 watt lamps at the rate of $2.50 per lamp per month. The contract is dated July 1, 1912, and its term is three years.

Of all street lighting supplied by defendant, the only classes which were subject to investigation in this proceeding were street arc lamp service and street incandescent lamp service where the lighting schedule

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is on the usual all night basis and where defendant undertakes to provide, maintain and operate all the facilities necessary.

The rate which was tentatively established by the Commission for municipal street lighting in Salinas, based on the unsatisfactory information then at hand, was as follows:

TABLE III.

Schedule "B," Municipal Street Lighting.

Applicable to all street and other public outdoor lighting.
Ten cents per year per watt connected.

Owing to the method adopted by defendant in prorating the operating expenses chargeable to street lighting service, it was impossible to ascertain the exact street lighting cost or to segregate that cost between the different classes of street lighting service. The Commission accordingly found it necessary to base the rate on the connected load as shown in Table III.

Defendant's estimate of the cost of street lighting service as shown by Exhibit No. IV, is as follows:

TABLE IV.

Cost of Municipal Street Lighting.

Summary.

	6.6 ampere arc service per lamp per year	100 watt tungsten service per lamp per year
Return on investment at 10 per cent	$13 40	$5 62
Operation and maintenance of lamps	7 15	7 60
General expense	50	50
Depreciation	37	17
Cost of energy consumed*	31 45	9 55
Taxes	2 63	1 16
Totals	$55 50	$24 60

*Based on 4,000 hours burning per year.

In the above table, defendant gives its estimate of what the cost of street lighting should be, instead of taking the actual segregated cost as shown by its books. The rate thus estimated is considerably in excess of the rate established by this Commission as shown in Table III. After a further careful investigation by the Commission's engineers, I am convinced that only a portion of the actual cost of street lighting is shown by the company's books, and that a very considerable proportion of the expenses properly chargeable to this service has been improperly charged to other distribution accounts.

The cost of producing, transmitting and transforming defendant's electric energy, including street lighting service, as heretofore found by

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the Commission in this case, exclusive of the cost of purchased energy, is as follows:

TABLE V.

Cost of Electric Service.

	Production	Transmission	Substation	Subtotal	Street lighting
Investment	$198,736 89	$116,726 43	$64,567 06	$380,030 38	$26,837 58
Interest	$15,898 95	$9,338 11	$5,165 36	$30,402 42	$2,147 01
Depreciation	3,242 38	2,445 17	1,162 08	6,849 63	733 33
Maintenance	1,031 49	972 54	62 95	2,066 98	274 61
Total fixed cost	$20,172 82	$12,755 82	$6,390 39	$39,319 03	$3,154 95
Operation	$16,189 54	$878 05	$402 30	$17,469 89	$1,333 97
Taxes	1,753 32	657 39	327 53	2,738 24	216 45
Total operation cost	$17,942 86	$1,535 44	$729 83	$20,208 13	$1,550 42
Total cost of service	$38,115 68	$14,291 26	$7,120 22	$59,527 16	$4,705 37

The present investigation as to a proper rate for street lighting has been, in so far as possible, based on the actual cost of service for the year ending September 30, 1914, and the actual additions and betterments to capital have been taken as of that date instead of using the amount which the Commission has heretofore allowed for construction capital. In this manner the cost of energy at the low tension terminals of distribution substations has been ascertained as shown in the following table:

TABLE VI.

Cost of Production, Transmission and Transformation.

		8 per cent interest	C. R. C. depreciation
Production capital:			
C. R. C. less construction capital	$182,207 25	$14,576 58	$2,866 82
Actual additions and betterments to September 30, 1914	13 65	41	23
Transmission capital:			
C. R. C. less construction capital	107,017 85	8,561 43	2,230 45
Actual decrease to September 30, 1914	3,169 35	94 99	52 55
Substation capital:			
C. R. C. less construction capital	60,040 23	4,803 22	1,040 76
Actual additions and betterments to September 30, 1914	1,971 20	59 09	32 68
Totals	$348,080 83	$27,905 74	$6,118 33

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Interest as above	$27,905 74	
Depreciation as above	6,118 33	
Maintenance (actual)	2,965 72	
Total fixed cost		$36,989 79
Operation expense (actual)	$7,517 86	
Net purchased energy (actual)	41,805 00	
General expense (prorated)	9,133 68	
Taxes (4.6 per cent on gross revenue)	4,602 23	
Total operating cost		63,058 77
Full cost		$100,048 56

Estimated connected load, 5,500 kilowatts.
Actual sales year ending September 30, 1914, 5,557,883 kilowatt hours.
Demand cost per kilowatt connected at average diversity factor, $6.73.
Demand cost for street lighting corrected for diversity factor for street lighting service (1.2), $18.23.
Energy cost per kilowatt hour sold, $0.01135.

Having determined the cost of energy delivered to the distribution lines, the additional local cost has been determined by segregating local street lighting capital to the different types of street lamps as shown in Table VII, and estimating the cost of service as shown in Table VIII.

TABLE VII.

Cost of Street Lighting. (*Local.*)

Total street lighting capital, December 31, 1914, C. R. C. less "construction capital"		$24,605 30
Additions and betterments, January 1, 1914, to September 30, 1914, per company's statements	$631 04	
Equivalent average investment for 12 months in additions and betterments		236 64
Total capital as of September 30, 1914 (for cost analysis)		$24,841 94

Segregation of investment:
½ capital prorated on lamp basis (143 arcs and 85-100 watt incandescents), $54.47 per lamp year.
½ capital prorated on connected load basis (66.273 kilowatts), $187.42 per kilowatt year.
Investment per lamp connected:
6.6 amperes series enclosed arc lamp, $131.50 per lamp.
100 watt series incandescent street lamps, $73.21 per lamp.
*Corresponding investment (other lamps):
60 watt series incandescent street lamps, $65.72 per lamp.
40 watt series incandescent street lamps, $61.97 per lamp.

*No lamps of these sizes are reported.

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TABLE VIII.

Cost of Street Lighting.

6.6 Ampere Series Arcs.

Capital		$131 50 per lamp
Interest at 8 per cent	$10 52	
Depreciation	3 59	
Maintenance	1 32	
		$15 43
Trimming, etc.	$6 00	
Miscellaneous supplies and labor	1 75	
Administration, supervision, etc.	3 50	
		11 25
Taxes		1 28
Subtotal		$27 96
Cost of energy at lamps		25 96
Total cost of service		$53 92

6.6 Ampere Series Incandescent Lamps. (100 Watt)

Capital		$73 21 per lamp
Interest at 8 per cent	$5 83	
Depreciation	2 00	
Maintenance	73	
		$8 56
Renewals, etc.	$4 06	
Administration, supervision and miscellaneous	1 60	
		5 66
Taxes		69
Subtotal		$14 91
Cost of energy at lamps		6 31
Total cost of service		$21 22

Cost of Street Lighting.

6.6 Ampere Series Incandescent Lamps. (60 Watt)

Capital		$65 72 per lamp
Interest at 8 per cent	$5 26	
Depreciation	1 80	
Maintenance	66	
		$7 72
Renewals, etc.	$3 42	
Administration, supervision and miscellaneous	1 37	
		4 79
Taxes		60
Subtotal		$13 11
Cost of energy at lamps		3 79
Total cost of service		$16 90

6.6 Ampere Series Incandescent Lamps. (40 Watt)

Capital		$61 97 per lamp

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Interest at 8 per cent	$4 96	
Depreciation	1 69	
Maintenance	62	
		$7 27
Renewals, etc.	$3 42	
Administration, supervision and miscellaneous	1 36	
		4 78
Taxes		58
Subtotal		$12 63
Cost of energy at lamps		2 53
Total cost of service		$15 16

From the analysis of cost shown in Tables VI to VIII, inclusive, it will be evident that a rate for street lighting service such as is supplied by defendant should be based upon the type of lighting unit used rather than upon the connected load, which latter method makes no distinction between the different classes of service. Had sufficient evidence been introduced in the first instance in this case, the Commission would not have resorted to a uniform flat rate per watt of connected load, but would have established a rate for the class of lighting unit, as will now be done in the light of the additional information now supplied.

After careful consideration of the supplemental data submitted by defendant at the request of this Commission, I find as a fact that the rates set forth in Table IX are just and reasonable rates to be charged by defendant for street lighting service to the city of Salinas:

TABLE IX.

Yearly Rate for Series Street Lighting Service.

(On lamp basis.)

ALL NIGHT LIGHTING SCHEDULE.

Arc lamps: 6.6 ampere series, enclosed arc lamps	$54 00 per lamp
100 watt series incandescent street lamps	21 60 per lamp
60 watt series incandescent street lamps	17 40 per lamp
40 watt series incandescent street lamps	15 00 per lamp

The above rates are for "all night" and every night service, and include all maintenance and lamp renewals necessary for such service.

It should be distinctly understood that the rates herein found to be reasonable for street lighting service supplied by defendant are based upon the present equipment and facilities and upon the type of lighting units now in service. Should any change be made by defendant in the type or character of service supplied or in the hours used per calendar year, it may be necessary for the Commission to reconsider this matter and to establish new rates to meet the changed conditions.

I submit the following form of supplemental order:

SUPPLEMENTAL ORDER.

The Commission having heretofore on the twenty-eighth day of August, 1914, made its order in the above entitled case, and Coast Valleys Gas and Electric Company having thereafter filed its petition for a rehearing, and the Commission having denied said petition for a

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rehearing and having granted said company ten days in which to submit additional information bearing on the cost of street lighting service in the city of Salinas, the company having within said ten days submitted said additional information, the Commission hereby finds as a fact that the rates charged by the company for electric street lighting service in the city of Salinas, in so far as they differ from the rates established in this order, are unjust and unreasonable and that the rates herein presented are just and reasonable rates.

Basing its decision on the foregoing findings of fact and the further findings of fact which are contained in the opinion which precedes this order,

It is hereby ordered that Coast Valleys Gas and Electric Company be and the same is hereby directed to establish and file with this Commission within twenty days from the date of this order, the following rates for electric street lighting service supplied or to be supplied by it in the city of Salinas, these rates to be effective from and after the effective date of the original order herein:

Yearly Rate for Series Street Lighting Service.

(On lamp basis.)

ALL NIGHT LIGHTING SCHEDULE.

C. R. C. classification: Service 2235; rate 0800; serial No. 141120-1.

Arc lamps: 6.6 ampere series, enclosed arc lamps	$54 00 per lamp
100 watt series incandescent street lamps	21 60 per lamp
60 watt series incandescent street lamps	17 40 per lamp
40 watt series incandescent street lamps	15 00 per lamp

The above rates are for "all night" and every night service, and include all maintenance and lamp renewals necessary for such service.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of November, 1914.

DECISION No. 1974.

IN THE MATTER OF THE APPLICATION OF LEBARON G. THISTLE TO TRANSFER A TELEPHONE EXCHANGE TO E. JACKSON GANN.

Application No. 1401.

Decided November 30, 1914.

REPORT OF THE COMMISSION.

LeBaron G. Thistle having applied to this Commission for authority to sell to E. Jackson Gann, for $128.00, certain telephone exchange

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property at Mariposa, California, which property is described as follows:

2 Kellogg telephones;

2 Western electric telephones;

1 twenty-party Kellogg switchboard, equipped with 10 jacks;

And the Commission being of the opinion that this is not a case in which a public hearing is necessary, and that the application should be granted,

It is hereby ordered that this application be and the same is hereby granted.

Dated at San Francisco, California, this 30th day of November, 1914.

Decision No. 1975, grade crossing; not printed. See end of volume.

DECISION No. 1976.

JOHN WALL ET AL.

vs.

NEVADA-CALIFORNIA-OREGON RAILWAY COMPANY.

Case No. 536.

Decided November 30, 1914.

The Commission, in connection with the above named complaint, having directed defendant company to construct its passenger depot in the town of Alturas, where its line of railway intersects Modoc street, and there being considerable dissension among the residents of said town, a considerable number of whom desire said depot at the intersection of Fourth street, a rehearing was granted at which an inspection of both sites was made; and it appearing that the Fourth street site was far more suitable in every particular to the convenience of the majority of people, defendant directed to present, within ten days, for the approval of the Commission, plans for the construction of a depot where its line of railway intersects Fourth street and to construct said depot ninety days after the approval of such plans.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

SUPPLEMENTARY OPINION AND ORDER ON APPLICATION FOR REHEARING.

On May 16, 1914, this Commission rendered its decision in the above entitled case and upon the finding that the location of the present depot of the Nevada-California-Oregon Railway in the town of Alturas is inconvenient and unreasonable as to passenger traffic moving over defendant's main line to and from that point, and that a convenient and reasonable site for its location would be on the west side of defendant's line at the intersection of Modoc street, and that public convenience and necessity would be served by the construction of a depot at that point,

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an order was entered directing the defendant to construct a depot building in Alturas at the intersection of Modoc street and defendant's line of railroad. Thereafter a petition was filed by certain residents of the town of Alturas asking that a rehearing of the matter be granted. On September 17th a hearing was held in Alturas on the application for rehearing and at that time it developed that there was considerable opposition to the location of the depot of the Nevada-California-Oregon Railway at the foot of Modoc street. Two other sites were proposed by witnesses testifying at the hearing—one at the intersection of Main street and the other at the intersection of Fourth street and defendant's line of railroad in Alturas. The objection to the location of the depot at the foot of Modoc street was on the ground that it would be unsafe, because Modoc street is what is commonly known as a blind street and terminates at the railroad's tracks, and because a train stopping at a depot located at that point would partly extend over and upon a trestle crossing the Pitt River just a short distance below Modoc street.

It was also urged by the opponents of the Modoc street site that Modoc street is impassable during the winter season and for that reason it would be impracticable to locate the depot on that street. This objection, however, was met by the offer of the witnesses in favor of that site to put this street in good condition and make it passable throughout the year. It was also stated that the proposed site at the foot of Modoc street is in the extreme southeast corner of the town of Alturas and is not as convenient to the majority of the people of Alturas as the proposed site at the intersection of the railroad and Fourth street.

There is also a decided objection to the location of the depot at the intersection of Main street and the railroad largely because of the condition of the north end of this street during the winter months and because it is not convenient, so it is alleged, to the majority of the people of Alturas.

The Fourth and East street site, in the opinion of many of the witnesses, would more satisfactorily accommodate the majority of the people of Alturas than any of the other sites considered, and from a safety standpoint, be more suitable than any of the other sites proposed.

As the different opinions prevailing among the people of Alturas as to the safe and proper location of the depot seemed irreconcilable, an inspection of the sites proposed was made by representatives of the Commission, and after full consideration of the entire matter, I am of the opinion that the Fourth and East streets site is more suitable than either the Modoc street or Main street sites for the location of the depot. The ground here is comparatively high and level and the railroad grade is practically on a level with the street grade and no bridge is adjacent to this site to add a hazard to its use for the location of a depot. In addition there is sufficient ground available at this point to enable the

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carrier to move thereto its entire facilities—that is, both its freight and passenger depots, within the town of Alturas, which it could not under the present conditions remove to the Modoc street site. This site is but 600 feet more distant from the post office than is the Modoc street site and approximately 3,000 feet southeast of the present location of the depot and 2,000 feet northeast of the proposed Modoc street site. Further, the removal of the facilities to Fourth and East streets would not inconvenience, to as great an extent as the removal of the facilities to Modoc street, those people who have located in the vicinity of the carrier's present facilities, relying upon their continued maintenance.

Upon the entire record I am of the opinion and find that public convenience and necessity will be more adequately served by the location of the depot at the intersection of Fourth street and defendant's line of railroad in Alturas, and I recommend that the former order of the Commission in this matter be modified and that from and after the date of this order that the Nevada-California-Oregon Railway be permitted to discontinue stopping its passenger trains at the intersection of Modoc street and the line of said Nevada-California-Oregon Railway and be required to thereafter stop all of its trains carrying passengers at the site upon which the order directs that the depot be located—that is, at the intersection of Fourth street and the line of said Nevada-California-Oregon Railway.

I submit the following supplementary order:

SUPPLEMENTARY ORDER.

An order having been entered in the above entitled proceedings on May 16, 1914, and thereafter an application for rehearing having been filed, and a hearing thereon having been held, and based on the findings in opinion preceding the order, it appearing to this Commission that its former order in the above entitled matter should be modified.

It is hereby ordered that Nevada-California-Oregon Railway shall, within ten (10) days from the date of this order, present to this Commission for its approval plans for a passenger depot to be built in the town of Alturas at the intersection of defendant's line of railroad and Fourth street, known as Rice crossing, and shall, within ninety (90) days from the approval of said plans by this Commission, build on said location a passenger depot of such type as shall be approved by this Commission.

It is further ordered that, from and after the date of this order, Nevada-California-Oregon Railway discontinue stopping its passenger trains at the intersection of Modoc street and the line of Nevada-California-Oregon Railway in the town of Alturas, and thereafter stop all of its trains carrying passengers at the site upon which this order

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directs that Nevada-California-Oregon Railway construct a depot, that is, at the intersection of Fourth street and the line of said Nevada-California-Oregon Railway; and

It is further ordered that the order of this Commission entered in this proceeding on May 16, 1914, in so far as it conflicts with, or is inconsistent with, this order of this Commission, be and the same is hereby superseded and annulled.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 30th day of November, 1914.

DECISION No. 1977.

IN THE MATTER OF THE STOCKTON TERMINAL AND EASTERN RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE RENEWAL OF TWO PROMISSORY NOTES IN THE SUM OF ONE THOUSAND DOLLARS EACH.

Application No. 1233.

Decided November 30, 1914.

Applicant authorized to renew two promissory notes of the face value of $1,000.00 each for a period of six months and for such additional periods as may be necessary, provided that the aggregate renewals shall not exceed a period of one year.

J. E. Adams and *J. A. Nesbitt,* for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for authority to issue two promissory notes in the sum of $1,000.00 each in renewal of note in the sum of $1,000.00, dated May 16, 1913, payable to the order of San Joaquin Valley Bank, and the other note in the same amount, of the same date, payable to the order of Farmers and Merchants Bank of Stockton. The existing notes bear interest at the rate of 6 per cent per annum and the renewal notes are to bear the same rate of interest.

A public hearing on this application was held in San Francisco on November 30, 1914. The evidence shows that the proceeds from these notes were used for extensions as authorized by this Commission.

Applicant desires to issue the renewal notes for a term of six months, in order to avoid the necessity of coming before the Commission again at the expiration of six months. I recommend that this Commission authorize the issue of the renewal notes now requested for the term of

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six months and the issue of renewal notes thereafter, if necessary, provided that the combined terms shall not exceed one year.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Stockton Terminal and Eastern Railroad Company having applied to the Railroad Commission for an order authorizing the issue of two renewal notes, as hereinafter specified, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which the proceeds of the notes which it is now desired to renew are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that Stockton Terminal and Eastern Railroad Company be and the same is hereby authorized to issue its promissory note in the sum of one thousand dollars ($1,000.00), payable to the order of San Joaquin Valley Bank, with interest at the rate of six (6) per cent per annum, in renewal of an existing note in the same amount, payable to the same bank, and also its promissory note in the sum of one thousand dollars ($1,000.00), payable to the order of Farmers and Merchants Bank of Stockton, bearing interest at the rate of six (6) per cent per annum, in renewal of an existing note in the same amount, on the following conditions, and not otherwise:

1. The notes herein authorized to be issued shall be issued at not less than their face value.

2. Said notes may be issued for a term of six (6) months and renewal notes may thereafter be issued, provided that the rate of interest is not increased, and provided that the combined terms of the notes now to be issued and those which may hereafter be issued in renewal thereof shall not exceed twelve (12) months.

3. Stockton Terminal and Eastern Railroad Company shall within ten (10) days after their issue, report to the Railroad Commission the fact of the issue of the notes hereby authorized and the terms thereof.

4. This order shall not become effective until applicant has paid the fee specified by section 57, as amended, of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of November, 1914.

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DECISION NO. 1978.

CITY OF REDLANDS

vs.

CITRUS BELT GAS COMPANY AND P. J. DUBBELL, TRUSTEE.

Case No. 604.

Decided November 30, 1914.

Complainant, city of Redlands, having voted control of its utilities to the Commission, files a complaint alleging that the rates and service of defendant company, operating a gas generating and distributing system in said city, are unjust and unreasonable and petitions the Commission to fix reasonable rates and just rules of service.

Held, After careful check of the various items upon which defendant is entitled to a return and a comparison of operating expenditures and revenues covering the last four years: That the present rate of $1.20 per thousand cubic feet with a $1.00 minimum per month permits of a return of 7.36 per cent, which amount can not be considered as excessive; also that defendant's gas has a good heating value and that considerable steps have been taken to improve the quality of such gas and eliminate as far as possible all impurities therein, and the question of service deposits being taken up in another action covering all utilities under the Commission's jurisdiction, complaint dismissed.

F. A. Leonard, for Complainant.

Curtis & McNabb and *J. W. Curtis*, for Defendants.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

The complaint in this case is directed against the rates charged by defendants for artificial gas and against the quality of the service supplied in the city of Redlands.

The present rate of defendants applicable in the city of Redlands, as set forth in schedules on file with this Commission, is $1.20 per thousand cubic feet of gas delivered, with a minimum monthly charge of $1.00 per meter.

The complainant, city of Redlands, a city of the sixth class, has heretofore duly vested in the Railroad Commission, as provided by law, its powers of control over all its public utilities, including the gas plant and system owned and operated by defendants.

The defendant, Citrus Belt Gas Company, against whom alone complaint was first directed, was organized to take over and operate the gas plant and system in Redlands now held in the name of P. J. Dubbell who was subsequently, by amendment to the complaint, made a party defendant in this proceeding.

It appears that gas was first introduced into the city of Redlands during the years 1900 or 1901 when the Redlands Gas Company constructed its plant and installed its distributing system. About 1903

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the ownership of these properties passed to the Edison Electric Company, under whose management the system was extended to supply service over a large portion of the city. In the fall of 1905 the Home Gas and Electric Company was organized and in the spring following it began the construction of a competitive gas plant and system. During 1906 and 1907, on account of the keen competition existing between the Edison interests and the Home Company, the former reconstructed a large portion of its plant and system and extended its distribution lines into new territory. In the fall of 1908 the Home Gas and Electric Company took over the gas properties of the Edison Company, and incidentally the electric properties of the Home Company were at the same time transferred to the Edison Company. In 1909 the San Bernardino Valley Gas Company was organized and about July of that year took over the properties of the Home Gas and Electric Company of Redlands. In August, 1909, the properties of the Home Gas and Lighting Company of San Bernardino and the Colton Gas Company were taken over and about the first of the following year the Corona Gas Company joined the consolidation.

Under the management of the San Bernardino Valley Gas Company the constituent companies did not appear to prosper and on May 27, 1911, the San Bernardino Company was adjudged an involuntary bankrupt, at which time the holders of some ninety per cent of the indebtedness of the company transferred their interest to defendant P. J. Dubbell. In July of the year following, the properties of the defunct San Bernardino Valley Gas Company were offered for sale and purchased by said defendant P. J. Dubbell, acting for the creditors, and on August 17, 1912, the properties were transferred to him.

In the mean while on November 25, 1911, the Citrus Belt Gas Company, one of the defendants in this proceeding, was formed with the object of reorganizing and operating the properties of the bankrupt company.

At the present time the gas plant and system in Redlands, while operated in the name of Citrus Belt Gas Company, is held in the name of P. J. Dubbell, trustee for the creditors.

An appraisal of the gas properties in Redlands made by the Commission's engineers in connection with an inventory and valuation of

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all gas properties operated in the name of Citrus Belt Gas Company as of January 1, 1914, is shown in the following table:

TABLE No. I.

Estimated Cost of Reproduction, New and Depreciated Reproduction Cost, Gas Plants and Systems in Redlands.

Account	Estimated reproduction cost, new	Estimated depreciated reproduction value
Buildings	$4,479 00	$2,911 00
Gas holders	22,440 00	18,513 00
Furnaces, boilers and accessories	3,482 00	2,263 00
Gas generators	13,230 00	9,526 00
Purification apparatus	7,476 00	5,981 00
Steam engines	556 00	389 00
Miscellaneous gas plant equipment	819 00	614 00
Accessory equipment at works	12,711 00	9,533 00
Transmission mains		
Distribution mains	115,492 00	93,404 00
Services	49,078 00	39,262 00
Meters	19,130 00	15,304 00
Commercial gas arcs		
General capital	5,015 00	3,806 00
Engineering, superintendence, organization, legal expense, taxes and insurance, 10 per cent of all preceding items	25,391 00	25,391 00
Interest during construction, 3 per cent of preceding items	8,379 00	8,379 00
Land	2,750 00	2,750 00
	$290,428 00	$238,026 00

From evidence introduced at the hearing of this case in Redlands, on October 4, 1914, it appears that deductions should be made in capital accounts shown in Table No. I to provide for the following:

Duplicated equipment, etc.: The present gas production and distribution system in Redlands, being made up of the properties of two formerly competing companies, as hereinbefore noted, undoubtedly includes much duplicated property and equipment. This duplicated equipment, as shown in the corrected valuation report submitted by the Commission's engineers, is as follows:

TABLE No. II.

	Estimated cost of reproduction	Estimated present value
Buildings (½ "Edison" buildings)	$837 00	$544 00
Gas generators (1 set less salvage)	2,940 00	2,117 00
Purification apparatus (½-inch x 6-inch wash box)	315 00	252 00
Distribution mains (71,610 feet)	20,712 00	16,570 00
Services (809)	11,130 00	8,900 00
	$35,934 00	$28,383 00
Engineering, superintendence, organization, legal expense, taxes and insurance, 10 per cent	3,593 00	2,838 00
Interest during construction, 3 per cent of previous items	119 00	94 00
	$39,646 00	$31,315 00

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According to the evidence in the case, it is evident that the only useful purpose of the generating plant of the old Edison Company is to furnish additional production capacity during periods of extremely heavy send-out and for service at such times as one of the generator sets in the "Home" plant may become inoperative by reason of accident or necessary repairs during the winter months. Under the circumstances it would seem as though a proper solution of the problem would be to provide for the installation of an additional gas generating set in the "Home" plant and discontinue the rather inefficient present method of operation. If this is done there will be no possible reason for further maintaining the equipment in the "Edison" plant, if indeed it is necessary at this time.

Defendants maintain that the Commission's engineers have included in "Duplicated Mains" a large portion of the distribution system which is at present in operation and necessary for the proper and adequate maintenance of service. There appears to be considerable merit in this contention of defendants, and I feel that the depreciation in distribution mains, shown in Table No. II, should be reduced approximately one half. On the other hand, the entire equipment of the "Edison" plant, exclusive of the storage holders, should have been included with duplication instead of merely a portion of that equipment.

It further appears from the evidence that certain additions should be made to the capital account shown in Table No. I. These additions are as follows:

1. *Lands:* In Table No. I the value allowed by the Commission's engineers for lands in Redlands is $2,750.00, whereas the evidence shows that the original cost of the property was in the neighborhood of $7,000.00. Two thirds of this latter sum, in my opinion, is a fair and reasonable amount for such lands as are used and useful in connection with the present production, distribution and sale of gas by defendants in the city of Redlands.

2. *Franchises:* The sum of $350.00 should be added for the cost of the Redlands franchise.

3. *New purifier:* Testimony introduced at the hearing indicates that a new purifier is necessary to maintain proper service in Redlands and $2,000.00 should be added for this item.

4. *Additional generator capacity:* While it is apparent that the present "Edison" plant, exclusive of the storage holder, is not necessary in connection with the maintenance of gas service by defendant in Redlands, it is also proper to allow a sufficient amount to cover the installation of a new generating set in the "Home" plant, and I find that the sum of $3,807.00 is a sufficient sum for that purpose.

5. *Working capital:* This item, including "materials and supplies," can be amply provided for by an allowance of $12,481.00, which sum I find to be reasonable under the circumstances of the case.

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6. *Additions and betterments:* The total additions and betterments in Redlands from January 1, 1914, to June 30, 1914, as shown by the books of the company, were $257.37, and this amount should be included in order to bring the valuation up to July 1, 1914.

In view of all the evidence, I find that defendants may, under the circumstances of this particular case, reasonably be permitted to earn on the basis of capital and depreciation set forth in the following table:

TABLE No. III.

Summary of Capital and Depreciation, Gas Plant and System in Redlands.

	Capital	Depreciation annuity
Franchises	$350 00	
Lands	4,667 00	
Buildings	3,178 00	$57 92
Gas holders	25,425 00	250 09
Furnaces, boilers, etc.	3,946 00	107 27
Gas generators	12,135 00	329 90
Purification apparatus	9,757 00	123 41
Steam engines, etc.	715 00	13 03
Miscellaneous plant equipment	928 00	25 23
Accessory equipment at works	13,237 00	244 76
Distribution mains	119,226 00	2,421 86
Services	43,048 00	1,130 70
Meters	21,674 00	931 17
General capital	5,699 00	460 15
Total fixed capital	$263,985 00	$6,695 49
Working capital	12,481 00	
Total capital	$276,466 00	

Defendants' claim of $75,000.00 for development cost I believe to be excessive, particularly in view of the fact that the basis of return will be taken as the estimated cost to produce the property new, which cost should in this particular case represent closely the original cost. In this connection it should be noted that defendants frankly state that the claim for development cost was made on the theory that interest would be allowed by the Commission only upon depreciated reproduction value. The very fair-minded stand taken by defendants in this matter is entitled to just recognition, and while I do not feel that under the circumstances of this case it would be either fair or reasonable to allow anything for development cost in addition to the liberal basis used in this case for determining the reasonableness of the present rates of defendants, I do feel that upon the theory which prompted defendants to claim a material allowance for this item it would merit very careful consideration.

As to the value of $25,000.00 placed by defendants upon the well at Redlands I am of the opinion that such a claim is entirely lacking in

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merit, inasmuch as the value claimed bears no possible relation either to the original cost or the cost to duplicate the well.

The production and sales of gas at Redlands for the years 1912 and 1913 are reported to be as follows:

TABLE No. IV.

Production and Sales of Gas at Redlands.

	1912	1913
Production	*57,886,000 cubic feet	53,082,000 cubic feet
Sales	51,939,000 cubic feet	47,626,000 cubic feet

*Estimated on rates of production to sales in 1913.

The decrease in sales during 1913 is clearly abnormal and was due largely to the effects of financial loss in citrus fruit districts resulting from the destructive frosts during December, 1912, and January, 1913. For the reason that conditions during 1913 were not normal for the reasons stated, it would not be reasonable to assume that during the ensuing year such conditions would continue, and while I do not feel justified in assuming a material increase in the business of defendants in Redlands, I do believe that the facts fully justify the assumption that the more normal condition existing during 1912 will exist. For the reasons stated I will assume that the sales during the ensuing year will be 51,940,000 cubic feet, and using this figure as a basis it will be evident from the testimony of defendants' general manager to the effect that the losses in Redlands have been reduced to 5¼ per cent, that the gas produced will be approximately 54,818,000 cubic feet.

The operating expenses of defendants for the years 1910 to 1913, inclusive, were as follows:

TABLE No. V.

Cost of Operation, Including General Expenses and Taxes, Redlands Plant.

	1910	1911	1912	1913
Production expenses	$25,022 44	$24,669 46	$23,862 66	$20,623 92
Distribution expenses	6,923 64	4,855 90	4,704 35	7,143 86
Commercial expenses	7,661 80	4,589 39	4,948 18	6,139 49
	$39,607 88	$34,114 75	$33,515 19	$33,907 27
General expenses (prorated)	9,623 34	4,810 02	2,927 26	2,028 57
Taxes	2,134 57	2,492 09	2,522 54	2,743 72
	$51,474 79	$41,416 87	$38,964 99	$38,679 56

From the above table it is evident that there was a large increase in cost of distribution and the commercial expense during 1913 entirely unjustified by the gas sold in that year, and I do not feel that any such increase over the corresponding expenses in 1911 and 1912 is warranted or should be assumed to be reasonable for the

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ensuing year for the reason that there has been no actual increase in the amount of business transacted. For the reasons stated, I find that the cost of service shown in the following table is reasonable for the sales heretofore assumed:

TABLE No. VI.

Cost of Gas Service in Redlands.

Estimated revenue		$63,486 00
Production expense	$21,515 40	
Distribution expense	4,705 00	
Commercial expense	4,950 00	
General expense	2,930 00	
Taxes	2,920 35	
Total cost of operation	$37,020 75	
Depreciation annuity, Table III	6,095 50	
Total, including depreciation		43,116 25
Balance available for interest		$20,369 75

The probable revenue in Table No. VI, under the existing rates of defendants in the city of Redlands, has been estimated as follows:

TABLE No. VII.

Probable Revenue.

51,940,000 cubic feet of gas at $1.20 per thousand cubic feet	$62,328 00
Excess revenue due to minimum charge	1,158 00
Total estimated revenue	$63,486 00

It is evident from the figures above presented that the rate of return which defendants will receive on the basis shown in Table No. III will be approximately 7.36 per cent, which is neither unreasonable nor excessive, and I therefore recommend that the complaint in so far as it involves the rates of defendants be dismissed.

As to the questions of service involved in the complaint the evidence indicates that the facts are as follows:

Heating value. From the records of regular tests made by the city's inspector it is evident that the average heating value is in excess of 600 British thermal units per cubic foot and hence there is no just ground for complaint as to this point.

Impurities in the gas. The testimony indicates that for a time there was considerable trouble from naphthalene and some complaints as to excessive amounts of sulphur in the gas. The naphthalene trouble appears to have been largely overcome by defendants and the excessive sulphur has also been reduced to a normal amount. The greater care which is now being exercised by defendants in the selection of fuel and in the process of manufacture, together with the installation

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of the additional purification apparatus which has already been ordered for the Redlands plant, will materially improve the quality of the gas supplied by defendant.

Deposits. The general question of deposits demanded by gas and other utilities as a condition precedent to the rendition of service is now before the Commission and it is not considered necessary or desirable at this time to go into the purely local aspects of the matter in connection with this proceeding.

After a very careful consideration of all the evidence I find that the matters against which the complaint is directed other than the reasonableness of the existing rates of defendants have either been adjusted, or are in the process of adjustment, or are at present under investigation by this Commission in connection with other cases now pending, and I therefore recommend that the complaint be dismissed as to all other matters involved therein with the exception of the rates of defendants, and as to the question of the reasonableness of the rates charged by defendents for gas supplied in the city of Redlands, I have already recommended hereinbefore that the complaint be dismissed.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the matter having been submitted and being now ready for decision,

It is hereby ordered that said complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of November, 1914.

DECISION NO. 1979.

CITY OF CORONA

vs.

CITRUS BELT GAS COMPANY AND P. J. DUBBELL, TRUSTEE.

Case No. 662.

Decided December 1, 1914.

Complaint of the city of Corona alleges that the present rate of defendant company of $1.75 per thousand cubic feet with a $1.00 minimum per month or $1.50 per thousand cubic feet if paid before the tenth day of the subsequent month in which bill is incurred, is excessive and exorbitant, and accordingly petitions the Commission to fix just rates for such service and also prescribe just and reasonable regulations covering service of defendant:

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Held. After valuation of applicant's plant and equipment and check of operating expenses and revenues: That a just and reasonable rate for gas service in the city of Corona is $1.50 per thousand cubic feet on a four-ounce basis, with a monthly minimum charge of $1.00 per month, such rate to become effective within twenty days. Further investigations to be made as to the quality of gas and service of defendant, whereupon such further order will be made as may be deemed advisable.

G. R. Freeman, for Complainant.

Curtis & McNabb and *J. W. Curtis*, for Defendants.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is a complaint by the city of Corona against the rates charged by defendants for artificial gas supplied in said city and also against certain practices of defendants and the quality of their service.

The complainant alleges, in effect, that defendants have established and are now collecting a rate of $1.75 per thousand cubic feet of gas sold in Corona, provided that when bills are paid on or before the tenth day of the month subsequent to that in which the gas is used, the rate is $1.50 per thousand cubic feet, and that the minimum monthly charge shall be $1.00. The complainant alleges that these rates are excessive and unreasonable, and asks that this Commission establish a just and reasonable rate to be charged by defendants for gas sold in Corona. The complainant further alleges that an inferior quality of gas is being supplied by said defendants in the city of Corona; that the pressure maintained is insufficient; and that certain practices of defendants with regard to service extensions and service deposits are unjust and unreasonable. This Commission is asked to accord relief in each of these matters.

Defendants' answer filed on September 10, 1914, denies all the material allegations of the complaint and asks that the complaint be dismissed.

A public hearing in this case was held in Corona on November 12, 1914. The case was submitted on that day with the understanding that the evidence which was introduced at the hearing of Case No. 604, *City of Redlands* vs. *Citrus Belt Gas Company*, be considered, in so far as relevant, in this case.

Corona is a municipal corporation of the sixth class. At an election held on April 13, 1914, the city transferred to the Railroad Commission its powers over all classes of public utilities, including gas companies.

Gas was first introduced into the city of Corona by the Corona Gas and Electric Company in 1903, and during the fall of that year and the early part of the year following approximately one third of the present system was installed. Construction work appears to have been largely at a standstill during the next two years and in 1906 construe-

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tion again proceeded with considerable energy. Another period of inactivity then followed until early in the year 1910, when these properties were taken over by the San Bernardino Valley Gas Company. During 1910 and 1911, the San Bernardino Valley Gas Company experienced a period of grave financial difficulties, culminating in a bankruptcy proceeding. On May 29, 1911, the company was adjudged an involuntary bankrupt. Defendant, Citrus Belt Gas Company, was organized on November 25, 1911, for the purpose of taking over and operating the properties of the bankrupt San Bernardino Valley Gas Company, but up to the time of the hearing in this case had not obtained title to any of these properties. On July 30, 1912, P. J. Dubbell, one of the defendants in this proceeding, acting for the creditors, purchased all the properties of the said bankrupt company, including the gas plant and system in Corona, which properties were finally transferred to said P. J. Dubbell on or about August 17, 1914. These properties are now all held in the name of P. J. Dubbell as trustee.

The Commission's engineers have made a complete inventory and valuation report covering the gas properties operated by the Citrus Belt Gas Company as of January 1, 1914, and a summary of the report in so far as it affects the gas plant and system of defendants in Corona is given in the following table:

TABLE No. I.

Estimated Cost to Reproduce New and Depreciated Reproduction Cost of Gas Plant and System in Corona.

Account	Estimated reproduction cost, new	Estimated depreciated reproduction cost
Buildings	$1,731 00	$952 00
Gas holders	6,630 00	5,635 00
Furnaces, boilers and accessories	1,721 00	947 00
Gas generators	4,394 00	2,988 00
Purification apparatus	2,982 00	2,386 00
Steam engines	275 00	206 00
Miscellaneous gas plant equipment	273 00	205 00
Accessory equipment at works	6,355 00	4,766 00
Transmission mains		
Distribution mains	13,914 00	11,479 00
Services	6,313 00	5,050 00
Meters	2,490 00	1,992 00
Commercial gas arcs		
General capital	780 00	454 00
Totals	$47,858 00	$37,060 00
Engineering, superintendence, organization, legal expense, taxes and insurance, 10 per cent of all preceding items	4,786 00	4,786 00
Interest during construction, 3 per cent of preceding items	1,579 00	1,579 00
Land	2,500 00	2,500 00
Totals	$56,723 00	$45,925 00

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In order to provide for the necessary additions and extensions to defendants' distributing system in Corona to take care of the estimated increase in business during the year 1915, it will be necessary to allow certain additional capital to be expended for that purpose. It will also be necessary to add to the valuation as summarized in Table I, the cost of defendants' franchise in the city of Corona and an allowance for working capital, including materials and supplies. The evidence shows that the Commission's engineers estimated the land as worth largely in excess of its real value, and that an allowance of $650.00 for this item will be ample. These additions and reductions have been included in Table II, which I shall use as a basis for determining the reasonableness of the rates to be established in this case. The capital account in Table II is as of June 30, 1914, with the exception that the construction capital to be expended between June 30, 1914, and the end of 1915 has necessarily been estimated. Between January 1, 1914, and June 30, 1914, the actual amounts expended for additions and betterments have been allowed.

TABLE No. II.

Summary of Capital and Depreciation, Gas Plant and System in Corona.

Item	Capital	Depreciation annuity
Land	$650 00	
Buildings	2,180 00	$39 73
Gas holders	7,524 00	66 56
Furnaces, boilers and accessories	1,950 00	53 00
Gas generators	4,979 00	135 35
Purification apparatus	3,560 00	45 03
Steam engines	312 00	5 69
Miscellaneous gas plant equipment	309 00	8 40
Accessory equipment at works	7,200 00	112 05
Distribution mains	16,131 00	297 41
Gas services	7,192 00	195 51
Gas meters	2,821 00	121 20
General capital	1,050 00	50 52
Construction capital (end of 1915)	2,105 00	28 60
Total tangible capital	$57,963 00	$1,159 05
Working capital	2,423 00	
Franchises	303 20	
Total capital	$60,689 20	

The quantity of gas produced and sold in the city of Corona by defendants for the year 1913 and a portion of the year 1914, and the quantity which it is estimated will be produced and sold in said city

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during the remaining portion of 1914 and during the year 1915, is shown in the following table:

TABLE No. III.

Gas Produced and Sold in Corona.

	1913 (actual)	1914 (actual estimated)	1915 (estimated)
Gas production	8,444,600 cubic feet	*9,881,000 cubic feet	9,723,600 cubic feet
Gas sales	7,094,200 cubic feet	*8,038,000 cubic feet	9,043,000 cubic feet

*Actual reported production and sales for first eight months, plus estimated amount for remaining four months.

In the above table the increase in sales for 1915 over the sales shown for the year 1914 has been taken as somewhat less than the actual increase for the first eight months of 1914 over the corresponding period in 1913. It has been assumed that the losses will be reduced somewhat less rapidly than is indicated from testimony introduced by defendants.

The cost of operation of the Corona plant and system of defendants, for the year ending December 31, 1913, is reported to be as follows:

TABLE No. IV.

Cost of Operation, Corona Gas Plant, for the Year 1913.

	Operating expense	Maintenance expense	Total
Production	$3,962 74	$397 53	$4,360 27
Distribution	647 71	942 83	1,590 54
Commercial	1,461 02		1,461 02
General (prorated)	593 38		593 38
Subtotal	$6,664 85	$1,340 36	$8,005 21
Improper charges to capital account		710 77	
Totals	$6,664 85	$2,051 13	$8,715 98

In connection with the foregoing table it is evident that the maintenance expense of the distribution system is excessive, and it is also evident that the item transferred from capital to the maintenance account is wholly abnormal. A similar condition apparently exists in connection with the operating expense, although there may be sufficient justification for rather large operating costs in this instance. At any rate, it is clear that the present operating costs are at least ample to take care of the increased sales estimated for the year 1915.

Table V shows the estimated cost of gas service to be furnished by defendants in the city of Corona for the year 1915 and is based on

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adjusted expenses which I find to be reasonable under the circumstances of this case:

TABLE No. V.

Cost of Gas Service in Corona.

Interest at 8 per cent on capital shown in Table II	$4,770 94	
Depreciation (see Table II)	1,159 05	
Maintenance	1,125 21	
Total fixed charges		$7,055 20
Operating expense	$4,637 54	
Fuel expense	2,334 36	
Taxes (city, 2 per cent; state, 4.6 per cent on gross revenue)	991 20	
Total operating expense		$7,963 10
Total cost of service		$15,018 30

After a careful consideration of the evidence introduced at the hearing of this case I find that a rate of $1.50 per thousand cubic feet of gas sold is a just and reasonable rate to be charged by defendants for artificial gas furnished to the inhabitants of the city of Corona, and I further find that the present monthly minimum charge of $1.00 is a just and reasonable minimum charge to be demanded by defendants under the circumstances of this particular case and under the present conditions surrounding the production and distribution of gas in said city.

The probable revenue which will be received by defendants for gas supplied in the city of Corona at the rate referred to in the preceding paragraph is estimated as follows:

TABLE No. VI.

Probable Effect of New Gas Rate (Year 1915).

9,043,000 cubic feet of gas at $1.50 per thousand cubic feet	$13,564 50
Estimated excess revenue from minimum charge of $1.00 per month	1,300 00
Miscellaneous revenue	160 00
Total estimated revenue for year 1915	$15,024 50

From the above it will be evident that under the rate indicated defendants will be receiving the full reasonable cost of the service in addition to at least 8 per cent on the reproduction cost new of the gas plant and system in the city of Corona.

The question of deposits and other charges as conditions to service is now under state-wide investigation by this Commission in Case No. 683, and the decision therein will apply to the defendants herein. Hence, no decision on this point will be made herein.

The question of quality and adequacy of the service furnished by defendants in the city of Corona is a matter of great importance to the public. While there is not sufficient evidence before the Commission in support of the allegations of the complaint in this regard to justify the issuance of the order requested, I shall recommend that the Commission's gas and electrical department be directed to make a careful and thorough investigation into the quality and the adequacy of the gas

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service supplied in the city of Corona in order that the Commission may make such further order as may appear necessary or advisable when it is fully advised as to the facts.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the case having been submitted, and being now ready for decision, it is hereby found as a fact that the existing rates of Citrus Belt Gas Company, or P. J. Dubbell, trustee, for artificial gas sold in the city of Corona are unjust and unreasonable in so far as they differ from the rates herein established, and it is further found as a fact that the rates herein established are fair and reasonable rates for said service.

Basing its order on the foregoing findings of fact and on the other findings which are contained in the opinion which precedes this order,

It is hereby ordered that Citrus Belt Gas Company and P. J. Dubbell, trustee, be and they are hereby directed to establish and file with this Commission within twenty days from the date of this order, the following rates for artificial gas sold by them in the city of Corona:

Rate for Artificial Gas in the City of Corona.

Applicable to all classes of consumers.

$1.50 per thousand cubic feet, on a 4-ounce basis.

Minimum monthly charge $1.00 per meter.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of December, 1914.

DECISION NO. 1980.

IN THE MATTER OF THE APPLICATION OF A. A. WEBER AND ALTA DISTRICT GAS COMPANY FOR AN ORDER AUTHORIZING SALE AND MORTGAGE OF GAS PLANT AND DISTRIBUTING SYSTEM IN THE CITY OF DINUBA.

Application No. 663.

Decided December 3, 1914.

Alta District Gas Company having been previously authorized to issue its stock in exchange for a certain gas distributing system in the town of Dinuba and not desiring to act under such authorization, applies for and is granted authority to issue $28,000.00 par value of its capital stock in exchange for said system and to execute its promissory note of the face value of $10,000.00 covering construction expenditures made in connection with said system.

Edwards & Smith, for Applicant.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

SUPPLEMENTAL OPINION.

In an order dated the 23d day of September, 1913, this Commission, among other things, authorized applicant to transfer his gas generating and distributing system in the town of Dinuba to Alta District Gas Company, in consideration of the transfer to applicant of $35,000.00, par value of the capital stock of said company.

This portion of the order was not acted upon and we are now asked to modify said order so that applicant shall be authorized to transfer said gas generating and distributing plant to said Alta District Gas Company in consideration of the issuance and delivery to applicant of $28,000.00, par value of the capital stock of said company.

We are further asked to authorize said gas company to execute a mortgage on said plant after its acquirement in the sum of $10,000.00, the proceeds thereof to be used to pay off indebtedness created by applicant in the construction of said plant.

Since the above mentioned order was made there has been added to the gas plant betterments and additions costing approximately $3,000.00. At the time of the aforesaid order $30,000.00 had been invested in the plant, so that with the additions made since we are advised that the plant has cost approximately $33,000.00. There is outstanding a floating indebtedness which will be assumed by the gas company of not to exceed $1,000.00.

The net result of granting this application will be that there will be outstanding $28,000.00 par value of stock of the gas company and a mortgage upon its property of $10,000.00, with a floating indebtedness of $1,000.00. In other words, the excess of property over the amount of the mortgage will be represented by stock outstanding at a trifle less than 85 per cent of par.

Applicant shows that in recent months its earnings have been sufficient to assure the payment of the interest on the proposed mortgage.

Applicant also requests that that part of the order heretofore made which authorizes Alta District Gas Company to issue a note not to exceed $20,000.00 be canceled.

I recommend that this application be granted and submit herewith proposed order:

ORDER.

Application having been made by A. A. Weber and Alta District Gas Company to change or modify the order heretofore made herein in the respects set out in the foregoing opinion, and it appearing to the Commission that said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that the order heretofore made herein on the 23d day of

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September, 1913, is hereby modified and changed in the following particulars:

A. A. Weber is hereby authorized to sell and Alta District Gas Company is hereby authorized to purchase that certain gas generating and distributing plant located in the city of Dinuba, together with any franchise or franchises under which said gas generating and distributing plant is operated. Consideration for said transfer shall be the issuance to said A. A. Weber of $28,000.00, par value, of the capital stock of Alta District Gas Company, provided that said property or plant shall be transferred to said company free and clear of encumbrance, except an indebtedness of not to exceed $10,000.00, which is to be represented by a note and mortgage executed by Alta District Gas Company, and a floating indebtedness of not to exceed $1,000.00.

Alta District Gas Company is hereby authorized to execute a promissory note in the principal sum of $10,000.00, payable in three years from date, bearing interest at the rate of 8 per cent per annum, payable semiannually, and secured by a mortgage upon all of the property of said Alta District Gas Company.

That part of the order heretofore made herein on the 23d day of September, 1913, whereby Alta District Gas Company was authorized to issue a promissory note in the principal sum of not to exceed $20,000.00, is hereby canceled and annulled.

Except in the particulars in this order set out the order heretofore made herein on the 23d day of September, 1913, shall remain in full force and effect.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of December, 1914.

Decision No. 1981, grade crossing; not printed. See end of volume.

DECISION No. 1982.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY FOR AUTHORITY TO RENEW PROMISSORY NOTES.

Application No. 1423.

Decided December 3, 1914.

Applicant, Oakland, Antioch and Eastern Railway, authorized to execute its promissory notes aggregating the total face value of $295,345.28, with interest not to exceed 7 per cent per annum, said notes to be in renewal of notes of a like face value now outstanding.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Oakland, Antioch and Eastern Railway having applied to this Commission for authority to renew certain promissory notes of the total face value of $295,345.28, and a hearing having been held, and it appearing that the purposes for which it is proposed to issue said notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Oakland, Antioch and Eastern Railway be granted authority and it is hereby granted authority to issue promissory notes of the total face value of $295,345.28.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall be used for the purpose of renewing or extending existing promissory notes of applicant as follows:

Note to United States Steel Products Company, dated March 2, 1914	$50,000 00
Note to United States Steel Products Company, dated June 2, 1914	7,500 00
Note to Union Switch and Signal Company, dated November 18, 1913	24,358 00
Note to Union Switch and Signal Company, dated December 24, 1913	4,772 00
Note to Union Switch and Signal Company, dated April 1, 1914	2,741 50
Note to Union Switch and Signal Company, dated April 23, 1914	10,762 15
Note to Westinghouse Electric and Manufacturing Company, dated November 2, 1914	26,661 23
Note to Westinghouse Electric and Manufacturing Company, dated September 18, 1914	30,385 13
Note to Central Trust Company of New York, dated October 3, 1914	75,000 00
Note to Charles Nelson Company, dated September 17, 1914	8,609 36
Note to First National Bank of Oakland, dated August 27, 1914	15,000 00
Note to First National Bank of Oakland, dated October 26, 1914	10,000 00
Note to Moore & Scott Iron Works, dated September 24, 1914	3,300 00
Note to Moore & Scott Iron Works, dated September 24, 1914	3,300 00
Note to John A. Roebling's Sons Company, dated September 17, 1914	12,918 86
Note to J. H. Baxter, dated September 22, 1914	1,500 00
Note to Pope & Talbot, dated September 24, 1914	8,537 05

(2) The notes herein authorized to be issued shall be issued for a period not to exceed one year from date and at a rate of interest not to exceed 7 per cent per annum.

(3) Oakland, Antioch and Eastern Railway shall keep separate, true and accurate accounts showing the receipts and application in detail of the proceeds of the sale of the notes hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the issue, sale or sales of said notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys or the notes refunded therewith, all in accordance with

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this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted shall apply to such notes as shall have been issued on or before December 1, 1915.

(5) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

Dated at San Francisco, California, this 3d day of December, 1914.

DECISION No. 1983.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE VALUE OF THE PROPERTY OF WILLIAM G. HENSHAW, DOING BUSINESS AS A COMMON CARRIER, UNDER THE NAME AND STYLE OF CRESENT CITY RAILWAY.

Case No. 411.

Decided December 3, 1914.

Investigation upon the Commission's own initiative to ascertain the various elements entering into the value of respondent's property. Findings made only as to facts and not on the ultimate value of the property irrespective of the purposes for which such valuation is made. Terms defined and reference made to decision in Case No. 206 for general procedure in valuation cases of this nature.

Findings of fact: (1) Original cost, in view of the fact that the original construction expenditures were consolidated with expenditures made upon the cement plant, in connection with which plant this road was constructed, no figures are available covering this item; (2) That the reproduction value of the operative physical property of respondent as of June 30, 1914, is the sum of $457,885.09; (3) That the present value of the operative physical property of respondent as of June 30, 1914, is the sum of $430,052.55.

H. L. Carnahan, for the Cresent City Railway.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is one of the so-called valuation cases, with the proceedings brought on the Commission's own initiative, for the purpose of ascertaining the facts in regard to certain elements entering into the value of the property of the various railroads in the State of California. For the general procedure in these cases and for description of the methods followed by the Commission's engineering department in making its valuation report to the Commission, reference is made to this Commission's opinion and findings in Case No. 206, being the matter of ascertaining the value of the property of the Stockton Terminal and Eastern Railroad Company.

I shall make findings of fact bearing on the question of value, as shown by the evidence in this case, and shall make no attempt at deter-

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mining the ultimate value of the property, irrespective of the purpose for which the value is to be used. In confining myself to the findings of fact relative to the different elements which have from time to time been mentioned by the courts in cases where the value of the property of a public utility has been material, I shall consider, for this particular property, the following matters:

(1) Organization, construction and operation.
(2) Stocks and bonds.
(3) Revenues and expenses.
(4) Original cost, as defined.
(5) Reproduction cost, as defined.
(6) Reproduction cost, less depreciation, as defined.

It is impossible to arrive at an intelligent and sound conclusion in any of these valuation cases without a clear and definite understanding as to what is to be valued, what elements of value are to be ascertained, and as of what date the valuation is to be taken. In other words, the basis of a valuation should always be clearly defined. For this purpose I will define certain terms which will be used in this decision.

The term "original cost," as used in this opinion, means the original book cost, and is defined as the actual expenditures chargeable to capital account, in accordance with the Interstate Commerce Commission's classifications, in cash or its equivalent in terms of cash, made by the carrier for its operative property in the State of California, as of the date of the valuation.

The term "reproduction cost" is defined as the estimated cost in cash of acquiring the operative right of way and other operative real estate, and of reproducing, in the condition in which it was acquired, the other physical property of the carrier in the State of California, as of the date of valuation; to which are added overhead expenditures for engineering, law, interest, and other similar items.

The term "reproduction cost less depreciation" is defined as the reproduction cost less the diminution in the value of the physical elements of the property, due to use, age, obsolescence, inadequacy or other causes, this diminution being called depreciation, and plus the increase in the value of the physical elements of the property, due to age or other causes, this increase being called appreciation.

This carrier, in accordance with the Commission's order, on December 15, 1913, filed an inventory, together with estimates of the reproduction value and present value of its property, as of June 30, 1913. This inventory was later supplemented with a report filed by the carrier, containing a valuation of extensions and additions to its property, and covering the period from July 1, 1913, to January 1, 1914. The carrier's final summary sheet of this valuation is attached to this decision as Exhibit "A."

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On June 10, 1914, the Commission's engineering department submitted its detailed valuation report in this case. This report gives the valuation as of June 30, 1913, and shows that the department made an independent investigation into the cost records and the physical condition of the road, and divides the inventory and appraisal into three sections, viz:

1.	Line in Riverside County	4.03 miles main line
2.	Line in San Bernardino County	2.46 miles main line
3.	Entire line	6.49 miles main line

The inventory and valuation of this property is given in detail in the engineering department's report, and the final summary sheet, showing the reproduction cost and reproduction cost less depreciation, is attached hereto as Exhibit "B." It will appear, therefore, that Exhibits "A" and "B" are comparable.

In addition to this total mileage of 6.49 miles main line, there was at that time still under construction the portion of the road from Bloomington to Rialto, a distance of 3.47 miles, which was not included in the valuation of this carrier's operative property.

When the hearing was held in this case, on September 17, 1914, this piece of construction had been completed and placed in operation, and the carrier requested that the valuation be brought up to June 30, 1914. It was stipulated at the hearing that this should be done. This stipulation, together with certain testimony introduced at the hearing, made necessary a reinvestigation and reinspection of the property, which was undertaken by the engineering department in the latter part of September and the early part of October, 1914. As a result, there is now before me a supplemental report of the department bringing the valuation of this property up to June 30, 1914. The final summary sheet of this report is attached hereto as Exhibit "C." Both the complete original report of the engineering department and the present supplemental report have been furnished to the carrier.

At the hearing a number of objections were made by the road's representatives to the original report of the engineering department covering the valuation as of June 30, 1913, and these objections will be further discussed hereafter. No exceptions have been taken by the carrier to the supplemental report, and the case is now ready for submission.

1. Organization, Construction and Operation.

The legal name of this carrier is William G. Henshaw, doing business as a common carrier, under the name and style of Cresent City Railway. William G. Henshaw, of San Francisco, is the sole owner of this road and operates it under the name of Cresent City Railway. Prior to December 26, 1912, the road was a part of the property of the Riverside-Portland Cement Company, and was operated as an

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industrial railway and not as a common carrier. In 1907, while the cement plant at Crestmore was under construction, the cement company endeavored to induce the Southern Pacific Company to build a spur from Riverside to its plant. That company, however, was unwilling to build such a spur and, as adequate transportation facilities were essential to the successful operation of the cement plant, the railroad was built from Riverside to Crestmore by William G. Henshaw, who was largely interested in the cement company. Physical connection was made with the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company at Riverside, and with the San Pedro, Los Angeles and Salt Lake Railroad Company at Crestmore.

This road is considered a steam railroad, although an electric passenger service is maintained over the entire line. An agreement, dated June 1, 1910, was entered into with the Pacific Electric Railway Company covering the operation of this company's electric cars over the road and the handling of all passenger traffic. The Cresent City Railway then connected with the Pacific Electric Railway Company in Riverside, and in 1910 constructed the distribution system from Market street junction in Riverside to Crestmore. The agreement expired June 1, 1911, but the operation continues as if it were still in effect. In 1911 the Cresent City Railway was extended to Bloomington, and the electric operation for passenger traffic was also extended. In 1913 the extension from Bloomington to Rialto was started, and at this time the Pacific Electric Railway Company maintains a through service between Riverside and Rialto.

The railway commenced doing business as a common carrier on December 26, 1912; and the carrier's accounts, which previous to that time had been kept jointly with the accounts of the cement company, have been kept separate since that time.

The operated mileage of the road is as follows:

	Main line	Sidings	Total
San Bernardino County	5.82	.28	6.10
Riverside County	4.03	.58	4.61
Entire line	9.85	.86	10.71

In addition to this mileage the carrier operates over certain interchange tracks, as follows:

1.	The Atchison, Topeka and Santa Fe Railway Company interchange track in Riverside	0.50 miles
2.	San Pedro, Los Angeles and Salt Lake Railroad Company interchange track in Crestmore	0.63 miles
3.	Southern Pacific Company interchange track in Riverside	0.40 miles
	Total	1.53 miles

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In the first of these interchange tracks this carrier owns a half interest. In the second it owns a third interest, and the last is owned entirely by the Southern Pacific Company.

The Cresent City Railway is a standard gauge steam railway, equipped with trolley, supported on side poles with simple suspension, and carrying 600 volts for the operation of the electric passenger cars. The line commences in Riverside, runs northerly for about a mile through that city, continues northerly, crossing the Santa Ana River on a long wooden trestle with embankment approaches, runs thence still northerly, along comparatively level ground, to Bloomington, passing the Riverside-Portland Cement Company's plant about 3.4 miles from the initial point in Riverside, and crosses the Riverside-San Bernardino county line about 3.8 miles from the same point. From Bloomington the line runs in a northeasterly direction to Rialto, crossing the main line track of The Atchison, Topeka and Santa Fe Railway Company immediately south of that town. The carrier operates over the larger portion of the line on its own right of way, which consists of a strip of land varying from 10 feet to 100 feet and averaging 50 feet in width, with no extra areas for station grounds or terminal yards except a number of lots located at Bloomington and used partly for station grounds and partly occupied by an orange grove. The carrier owns two franchises and two easements from the city of Riverside and one franchise from the county of San Bernardino. These stipulate that the carrier shall allow certain clearances for streets, construct and maintain certain irrigation channels in Riverside city park, and maintain one overhead crossing. Between Bloomington and Rialto the county gave the railway a franchise on the condition that the latter regrade and oil forty feet of the county road.

There is nothing unusual about the location and construction of this railway. The grading is very light, except across the bottom of the Santa Ana River, where the work is all embankment, averaging approximately 12 feet in height. The road is built with a 14-foot roadbed, and where the higher embankments occur the fill is made wider. The maximum curvature on the road is 12 degrees, and the maximum grade, 2 per cent. The weight of the main line rail is 60 and 65 pounds per yard in Riverside County and 60 and 56 pounds per yard in San Bernardino County. The carrier owns its steam equipment for the handling of freight exclusively. The passenger service is performed by the Pacific Electric Railway Company under contract.

2. Stocks and Bonds.

This railway is owned solely by William G. Henshaw, is not an incorporated company, and has no stocks or bonds issued or outstanding.

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3. Revenues and Expenses.

The Cresent City Railway has been in operation only since December 26, 1912, and traffic and revenue statistics are therefore available for only one entire fiscal year. The total revenue originates from freight and switching operations. The passenger traffic is handled under a written agreement, dated June 1, 1910, between the Cresent City Railway and the Pacific Electric Railway Company, by which the latter company has the sole right to operate electric passenger cars on the main line of the Cresent City Railway between Market street junction in Riverside and Bloomington. This right was extended to Rialto when the line was opened for traffic to that point on March 25, 1914. In consideration of the above right the Pacific Electric Railway Company pays monthly to the Cresent City Railway one third of the gross passenger receipts of the Riverside-Bloomington-Rialto line, less one third of the monthly wages of trainmen and one third of the cost of electric energy used. The written arrangement referred to expired on June 1, 1911, since which time the Pacific Electric Railway Company has been permitted to operate its cars on the same basis and as if the arrangement were still in effect. Under this agreement the income accruing during the last fiscal year to the Cresent City Railway is shown in the carrier's last annual report as "joint facility rent income," and amounts to $5,745.32.

The principal operating revenue and expense figures for the fiscal year ending June 30, 1914, follow:

Operating Revenues.

1. Freight revenue	$88,959 22	
2. Switching revenue	4,873 92	
Total revenue from transportation		$93,833 14

Operating Expenses.

1. Maintenance of way and structures	$12,709 82	
2. Maintenance of equipment	7,527 23	
3. Traffic expenses	1,591 27	
4. Transportation expenses	30,034 82	
5. General expenses	10,690 71	
Total operating expenses		$62,553 85
Net operating revenue		$31,279 29
Net operating revenue per mile of road		3,352 55

Averages.

Average number of tons of freight per loaded car mile	33.26
Average number of tons of freight per train mile	184.79
Average number of freight cars per train mile	10.77
Average number of loaded cars per train mile	5.56
Average number of empty cars per train mile	5.21
Average mileage operated during year, miles	9.33

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The principal commodities in the freight traffic movement were these:

Commodity	Tons	Per cent of total tonnage
Products of agriculture	1,219	.25
Products of mines:		
Gypsum	10,373	2.18
Stone	104,909	22.11
Other products of mines	1,140	.24
Products of forests:		
Lumber	197	.04
Manufactures:		
Fuel oil	82,135	17.30
Explosives	188	.04
Machinery	349	.07
Brick	1,061	.22
Cement	262,315	55.28
Lime dust	8,383	1.77
Merchandise	1,792	.38
Other commodities	578	.12
Total tonnage	474,639	100

Cement, it will be noted, is by far the most important commodity, constituting more than 55 per cent of the total tonnage hauled.

The general balance sheet of June 30, 1914, shows this carrier in a very healthy financial condition, with a credit to the profit and loss account of $84,572.70, as a result of only eighteen months of operation. It would appear, from the traffic figures given that the Cresent City Railway is efficiently conducting a very profitable business.

4. Original Cost.

Although this road is of comparatively recent construction, its entire original cost, in accordance with the definition given heretofore, can not be ascertained. This is because there was no distinction between expenditures for the railway and the Riverside-Portland Cement Company during the early period of construction of these plants, the funds for both enterprises coming from the same source. After a portion of the road had been placed in operation, this unsatisfactory method of accounting was changed, and the books of the railway since then have been kept according to the Interstate Commerce Commission's and this Commission's accounting classification.

In its annual report to the Commission this carrier shows under the entry "Investment in road and equipment as of June 30, 1914," the following items:

Value on December 26, 1912, based on appraised value June 30, 1913:	
Road	$364,498 64
Equipment	20,347 46
Investment since December 26, 1912	106,796 06
Total	$491,642 16

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Less reserve for accrued depreciation	3,017 31
Net total	$488,624 85
Stores and supplies, operative	8,298 80
Total, operative	$196,923 65
Stores and supplies, non-operative	7,806 34
Grand total	$504,729 99

The average figure per mile of road, on the basis of 9.78 miles main line and on the basis of the net total of $488,624.85, is, therefore, $49,961.64. It is to be noted that this carrier bases the book investment value of the property on an appraisal. While it is true that the original cost, as defined, can not be had, the engineering department has, however, been able to obtain much valuable original cost data, of which use has been made in the valuation undertaken by the Commission.

5. Reproduction Cost.

The carrier in its appraisal states that the value of its property as of June 30, 1913, was $446,273.81 (see Exhibit "A"). Its statement of expenditures for road and equipment, additions and betterments, and materials and supplies, for the period from July 1, 1913, to January 1, 1914, totals $102,117.65, and is made up of the following items:

I. C. C. Acct. No.	Classes	Amount
1	Engineering	$667 97
2	Right of way	1,950 00
4	Grading	12,493 67
6	Culverts	373 62
7	Ties	6,576 81
8	Rails	13,795 79
9	Frogs and switches	121 41
10	Track fastenings	6,214 68
11	Ballast	1,703 73
12	Tracklaying	3,635 94
13	Roadway tools	19 28
15	Crossings and signs	
16	Interlocking and signal	1,188 41
17	Telegraph and Telephone	1,521 94
18	Station buildings	1,045 71
19	General office buildings	63 50
29	Electric power transmission	8,717 26
37	Steam locomotives	20,711 61
43	Law expenses	600 00
46	Taxes	
47	Interest and commissions	1,265 75
48	Other expenditures	
	Total	$82,667 08
57	Stores and supplies	19,450 57
	Grand total	$102,117 65

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The engineering department reports that the carrier is aware that this statement includes expenditures made prior to July 1, 1913, omits other charges which should properly be included and duplicates certain items shown in its appraisal as of June 30, 1913. To this extent, therefore, the statement is not what it is intended to be, namely, a statement of expenditures for road and equipment, additions and betterments, and materials and supplies, from July 1, 1913, to January 1, 1914. As stated heretofore, instructions were given to bring the valuation of this property up to the date of June 30, 1914, and in another statement furnished by the carrier on September 2, 1914, the errors noted above are presumably adjusted, capital expenditures for extensions, additions and betterments are given for the period from July 1, 1913, to June 30, 1914, and these expenditures, if added to the carrier's reproduction cost as of June 30, 1913, will give the reproduction cost as of June 30, 1914, as nearly as it is possible to determine the total. This statement is shown hereunder:

ROAD AND EQUIPMENT, CARRIER'S FIGURES.

	Road	Rialto extension July 1, 1913, June 30, 1914	Additions and betterments July 1, 1913, June 30, 1914	Estimated reproduction cost as of June 30, 1913	Reproduction cost as of June 30, 1914
1.	Engineering	$1,277 38	$35 00	$13,976 80	$15,289 18
2.	Right of way and station guards	3,157 42	2,525 90	203,041 00	208,724 32
4.	Grading	1,203 38	54 59	30,476 73	31,734 70
6.	Bridges, trestles, culverts	547 70	161 12	23,481 16	24,189 98
7.	Ties	7,358 22	153 83	16,866 18	24,378 23
8.	Rails	14,688 65	301 19	27,695 02	42,684 86
9.	Frogs and switches	2,818 33	125 11	3,704 18	6,647 62
10.	Other track material	6,083 32	839 92	4,367 53	11,290 77
11.	Ballast	3,051 23	1,648 55	7,052 60	11,752 38
12.	Track laying and surfacing	4,842 78	67 36	9,473 73	14,383 87
13.	Roadway tools	95 22		344 26	439 48
14.	Fencing right of way			829 03	829 03
15.	Crossings and signs		1,188 41	497 50	1,685 91
17.	Telegraph and telephone lines	1,007 77	571 45	222 62	1,801 84
18.	Station buildings and fixtures		1,024 31	1,222 65	2,246 96
19.	General office fixtures		576 97		576 97
22.	Water stations			130 80	130 80
29.	Electric power transmission	13,153 27	412 66	15,609 79	29,175 72
32.	Transportation of men and material			100 00	100 00
33.	Rent of equipment	235 20	82 00		317 20
36.	Cost of road purchased			4,405 33	4,405 33
37.	Steam locomotives		20,826 97	22,180 00	43,006 97
40.	Freight train cars		343 65*	10,656 00	10,312 35
41.	Work equipment			850 00	850 00
43.	Law expenses	600 00		5,241 30	5,841 30
44.	Stationery and printing		41 00		41 00
46.	Taxes			46 87	46 87
47.	Interest and commission	1,581 45		14,086 49	15,667 94
48.	Other expenditures		600 00		600 00
	Contingencies			14,488 96	14,488 96
	Stores and supplies			15,227 28	15,227 28
	Grand total	$61,701 32	$30,892 69	$446,273 81	$538,867 82

*Indicates reduction.

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It would seem, therefore, as if there were considerable confusion between the different statements furnished by the carrier. The confusion is more apparent than real, however. The matters of values and appraisals become complicated with this road by a number of factors such, for instance, as operative versus nonoperative property, cost of land versus appraised values of land, the proper handling of stores and supplies, and other matters. Some of these will presently be discussed. According to the carrier's last statement the reproduction cost of its property as of June 30, 1914, as based on an appraisal and on expenditures for new construction and additions and betterments subsequent to the appraisal, is estimated by it to be $538,867.82.

The Commission's engineering department in its work, in order to have a basis for comparison, necessarily had to follow the system adopted by the carrier. The totals of the department's valuation for the operative property, corresponding to those of the carrier, as of June 30, 1913, are shown in Exhibit "B," and amount to $290,264.89. This appears to be a reduction of $156,008.92 from the carrier's corresponding value, or, on the basis of reproduction cost per mile of main track, a change from the carrier's figure of $68,763.30 to $44,724.94, being a reduction of $24,038.36 per mile. In addition to its total of $290,264.89 for the operative property, the department found nonoperative property items as follows:

Estimated market value of nonoperative land	$17,590 00
Original cost of other nonoperative property	24,926 35

Sixty per cent of the above difference between the carrier's and the department's reproduction cost estimate is in the item right of way, and results from conflicting opinions on land values. Thirty-eight of the remaining forty per cent occurs in four other items, *i. e.*, locomotives, overhead expenses, stores and supplies, and contingencies. New construction and addition and betterment charges since June 30, 1913, have been handled by the department in substantially the same manner as by the carrier. A careful investigation of the carrier's original cost data has been made, and as it was found that construction was carried on efficiently and the charges to capital account were proper charges, the carrier's actual cost figures, rather than the estimated unit costs, were used as a basis for the reproduction cost estimate. This method was varied from only with regard to right of way and other lands. Land bought for new construction, the actual cost of which was unknown, was treated exactly as all other land, the original cost of which was unknown. The market value of such land was found, and a proper multiple covering the estimated additional cost to the carrier of acquisition and damages to adjoining property was

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applied. This question of land values will be gone into more fully hereafter. Property which on June 30, 1913, had been nonoperative had by June 30, 1914, become operative, so that adjustments were also made in this respect. These new extensions, additions and betterments and transfers amounted to a total of $162,232.21, and were properly added to the engineering department's reproduction cost estimate of June 30, 1913. The details, which are very numerous, are found in the department's report of October 26, 1914.

To finally determine a complete reproduction cost as of June 30, 1914, I have also gone into the criticism of, and objections to, the engineering department's report as made by the carrier during the hearing on September 17, 1914. In a number of items the carrier's contentions were found to be correct, and the engineering department made changes in its valuation accordingly; in other items the carrier admitted to being in error, and in still others no agreement could be had and this Commission will have to decide. The principal change occurred in the item "rails," where the engineering department increased this account from $24,144.05 to $28,669.91, or $4,525.86. The causes for this change were that an enormous freight rate had been used in the cost of transportation and that the carrier submitted evidence which changed the classification of 186.06 tons of rail from relay steel to new steel. Other adjustments of minor importance are explained in the supplemental report, and I shall content myself with enumerating the items of all changes which result, it will be noted, in a total increase of the reproduction cost over the engineering department's original figures of $5,388.60. The changes occurred in the following accounts:

I. C. C. Acct. No.	Classes	Increase or decrease*
1	Engineering	$242 52
4	Grading	10 50
6	Pile and frame trestles	*413 50
7	Ties	295 65
8	Rails	4,525 86
9	Frogs and switches	348 14
10	Track fastenings and other material	83 71
37	Steam locomotives	65 00
43	Law expenses	48 50
47	Interest and commission	156 19
48	Other expenditures	26 03
	Total	$5,388 60

*Indicates reduction.

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The new total of the reproduction cost of this carrier, as of June 30, 1914, and as ascertained by the engineering department, can, therefore, be best shown to be made up of the following items:

1.	Reproduction cost as of June 30, 1913	$290,264 89
2.	Additions and betterments for new work	35,367 63
3.	Transfer from nonoperative to operative property	11,516 77
4.	Extension, Bloomington-Rialto	115,547 80
5.	Changes made by engineering department subsequent to hearing	5,388 60
	Total	$457,885 69

The principal contention of the carrier, however, is against the valuation of right of way and other land. As of June 30, 1913, the reproduction cost of right of way and station grounds is shown as follows by the engineering department:

1.	Operative lands, entire line	$109,419 42
2.	Nonoperative lands, entire line	17,590 00
3.	Additions and betterments, entire line	1,950 00
	Total	$128,959 42

The first item of $109,419.42 is the "railroad values" of the carrier's operative land and includes a multiple of 150 per cent, covering severance damages to adjoining property, and is based on the actual cost over and above the market value of lands, as this average was found by the department for all of the recently constructed railroads in this state. To this was added, for cost of acquisition, 10 per cent, and for interest, 6 per cent. For the second item, being nonoperative lands, the market value only, without multiple and other percentages, was allowed. Item three represents actual cost to the carrier. When the valuation was brought up to June 30, 1914, item one remained the same; item two had become operative property and was increased by a multiple of 150 per cent plus overhead and interest percentages, the same as used for item one, and resulted in an increased total of $30,474.68. Item three still remains an addition and betterment and is shown at the actual cost.

I have been unable to agree with the carrier's representatives that the value given these railroad lands by the engineering department is too low and should be increased, and it seems to me necessary to give my reasons for adhering to the original figure. The engineers for the company and for the Commission agreed as to the market value of land comprising the right of way of the Crescent City Railway, but differed greatly as to the estimate of "railroad value." For this item the carrier's value was 146 per cent of the engineering department's value, there being a difference between the two of $65,246.00. The engineering department adopted its usual method, referred to

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heretofore, of applying a right of way multiple to the market value of the land, while the carrier used two methods of determining railroad value. The first one was based on allowance for damages accruing to the property adjoining the right of way, and the second was the capitalization of maintenance cost and principally of the cost of protecting trains during the blasting periods of the rock quarry of the Riverside-Portland Cement Company's plants facing on the right of way. In the first method there is added to the market value of the right of way the estimated damage to the lots or acreage immediately adjoining the right of way. Reduced to the form of a right of way multiple, as used by the engineering department, we find that the carrier's railroad value varies from the normal market value by as much as 560 per cent of the market value, and averages for the entire line 250 per cent. This "severance value" in all cases is based upon individual estimates of the damage to adjoining property, which damage, in some cases, extends over as many as 12 adjoining lots or over 12½ acres of adjoining land. The engineering department used as the basis of damages the ratio of the actual cost of recently acquired right of way to the market value of that right of way when purchased, the ratio for this particular carrier being 1.97 for 51 per cent of the right of way. It was on this portion of 51 per cent of all the carrier's lands that the actual facts with reference to purchase conditions and purchase cost could exactly be ascertained. The department's method is, therefore, based on the actual facts as found on this particular road.

The carrier argued that this method was not the best evidence of railroad value of right of way, and contended, to the contrary, that the best evidence of value could be found in the opinions expressed by the real estate experts who testified for the carrier. It might be pointed out that the opinions of these experts do not conform to the present practice of buying railroad right of way and the actual cost of such land. For example, right of way purchased by this carrier at a definitely known figure immediately prior to the date of the carrier's appraisal was appraised by these experts a few months after the purchase at nearly two and one half times that figure. I do not see the reasonableness of now claiming a greatly higher value for right of way than it actually cost only a few months previous, when the carrier in fact paid in excess of an agreed market value. It appears to me that the best method to measure the damages to be added to right of way values in this case is to study the carrier's actual expenditures for that purpose and then determine the facts. It might be well to give a concrete instance, and I will refer to Parcel No. 23 in

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the valuation before me, which cost the carrier $1,000.00 and which was appraised by it a few months later, when conditions surrounding this property in no wise had changed, $2,870.00, this figure being based on the market value of $870.00, to which was added a damage value figured at $200.00 per acre to 10 acres of orange grove adjoining the right of way. In this case the actual damage paid by the carrier was the difference between the market value and the purchase price of $1,000.00. Since the market value, as agreed to by both the carrier and the engineering department, was $869.00, the damage paid by the carrier in acquiring this particular piece of right of way was only $131.00. This amount, distributed over 10 acres of adjoining orange grove, shows that the damages paid for by the carrier were only $13.10 per acre instead of $200.00 per acre, as claimed by the carrier's real estate experts. To estimate the reproduction cost of this right of way today, it would seem fair to me to allow the present market value of lands plus a damage value proportionate to what the company actually paid. The engineering department, it appears, went even further than that. Its investigations show that the Cresent City Railway was able to acquire its right of way cheaper than is the general rule. It was not thought fair to penalize this carrier for its special opportunities or superior efficiency in acquiring its lands, and the multiple adopted by the department is, therefore, the general average of 150 per cent of the market value found for this class of lands in this state, to which was added 10 per cent to cover the salary of a right of way agent, traveling expenses, commissions, fees, legal expenses and incidental costs. It would seem as if the investigations of this particular property tend to confirm the amplitude of this Commission's reproduction cost estimates for right of way and other railroad lands.

The second method used by the company in determining the railroad value of right of way consisted of capitalizing what are properly maintenance expenses. The cement plant mentioned heretofore employed a watchman to protect the railroad and wagon roads at times of blasting, and the cost of this protection is capitalized by the carrier and added to the value of its right of way. It is clear that such charges, if they were paid by the carrier, would plainly be operating expenses, and their effect on the ultimate value of the carrier's property will be reflected in the balance sheet. The capitalization of any operating expenses, in my opinion, lies entirely outside of the definition of the term "reproduction cost" and can not be considered. In view of these facts, the engineering department's right of way value seems to me consistent and fair, and I have made no changes from the original

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figure of $142,420.00 for this item. It should not be forgotten here that the Commission is endeavoring to merely determine the facts. I have in mind the decision of the Supreme Court of the United States in the *Minnesota Rate* case, in which that court refused to consider multipliers or other arbitrary percentages as proper additions to the market value of railroad lands. It may well be that in rate cases, and perhaps in other cases, no higher value than the market value or the actual cost should be considered by the commissions or the courts. There can be no question, however, that the extensive investigations carried on into this subject by this Commission in this state has proved conclusively that it costs a railroad company more to acquire land for right of way or other railway purposes than is represented by the mere fair market value of such lands.

Considering all of the reports, together with the testimony in this case, I find as a fact that the reproduction cost, as that term has heretofore been defined, of the operative property of this carrier, as of June 30, 1914, is the sum of $457,885.69.

6. REPRODUCTION COST LESS DEPRECIATION.

The carrier's present value estimate as of June 30, 1913, was $413,736.96 (see Exhibit "A"), which equals 93 per cent of the reproduction cost new. As against this figure the Commission's engineering department estimated the reproduction cost less depreciation of the operative property, as of the same date, to be $265,519.63, being 91 per cent of the department's reproduction cost (see Exhibit "B"). In addition, the department found nonoperative property of a total cost and value of $42,516.35. The carrier has estimated the total present value of its property, as of June 30, 1914, by adding to the present value of $413,736.96, given above, all additions and betterments, expenditures for new construction and the value of lands acquired and charged to the capital account during the one-year period from July 1, 1913, to June 30, 1914, on the assumption that the total found would represent the present value of its property as of the latter date, as nearly correct as it is possible to ascertain. This is done in the follow-

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ing table, which shows a total appraised value, as of June 30, 1914, of $491,642.16:

ROAD AND EQUIPMENT, CARRIER'S FIGURES, PRESENT VALUE.

	Road	Rialto extension July 1, 1913, June 30, 1914	Additions and betterments July 1, 1913, June 30, 1914	Appraised value as of June 30, 1913	Totals June 30, 1914
1.	Engineering	$1,277 38	$35 00	$13,353 05	$14,665 43
2.	Right of way and station grounds	3,157 42	2,525 90	203,041 00	208,724 32
4.	Grading	1,203 38	54 59	31,358 18	32,616 15
6.	Bridges, trestles and culverts	547 70	161 12	18,348 92	19,057 74
7.	Ties	7,358 22	153 83	13,185 51	20,697 56
8.	Rails	14,688 65	301 19	24,278 18	39,268 02
9.	Frogs and switches	2,818 33	125 11	3,183 67	6,127 11
10.	Other track material	6,083 32	839 92	3,852 79	10,776 03
11.	Ballast	3,051 23	1,648 55	7,052 60	11,752 38
12.	Track laying and surfacing	4,842 78	67 36	8,524 77	13,194 58
12.	Adjustments			240 33*	
13.	Roadway tools	95 22		258 10	353 32
14.	Fencing right of way			598 62	598 62
15.	Crossings and signs		1,188 41	466 31	
15.	Adjustments			49 20*	1,605 52
17.	Telegraph and telephone lines	1,007 77	571 45	179 60	1,758 82
18.	Station buildings and fixtures		1,024 31	971 01	1,995 32
19.	General office fixtures		576 97		576 97
22.	Water stations			106 64	106 64
29.	Electric power transmission	13,153 27	412 66	14,263 33	27,829 26
32.	Transportation of men and material			100 00	100 00
33.	Rent of equipment	235 20	82 00		317 20
36.	One half interest Atchison, Topeka and Santa Fe interchange tracks			2,632 63	2,632 63
	One half interest San Pedro, Los Angeles and Salt Lake interchange track			1,524 44	1,524 44
	Totals	$59,519 87	$9,768 37	$346,989 82	$416,278 06
	EQUIPMENT.				
37.	Steam locomotives		$20,826 97	$12,193 00	$33,019 97
40.	Freight train cars		343 65*	7,698 60	7,354 95
41.	Work equipment			694 00	694 00
	Totals		$20,483 32	$20,585 60	$41,068 92
	GENERAL EXPENDITURES.				
43.	Law expense	$600 00		$5,007 39	$5,607 39
44.	Stationery and printing		$41 00		41 00
46.	Taxes			46 87	46 87
47.	Interest and commission	1,581 45		13,023 19	14,604 64
48.	Other expenditures		600 00	13,395 28	13,995 28
	Totals	$2,181 45	$641 00	$31,472 73	$34,295 18
	RECAPITULATION.				
I.	Road	$59,519 87	$9,768 37	$346,989 82	$416,278 06
II.	Equipment		20,483 32	20,585 60	41,068 92
III.	General expenditures	2,181 45	641 00	31,472 73	34,295 18
	Totals	$61,701 32	$30,892 69	$399,048 15	$491,642 16

*Indicates reduction.

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It will be noted that there are a number of differences between the carrier's present value as shown in Exhibit "A" and the third column of figures in the table just given. These differences are caused by book adjustments and other corrections made by the carrier during the year ending June 30, 1914.

The Commission's engineering department has arrived at its reproduction cost less depreciation, as of June 30, 1914, as follows:

1.	Reproduction cost, less depreciation, as of June 30, 1913 (Exhibit "B")	$265,519 62
2.	Appreciation in property items during the year ending June 30, 1914	880 36
3.	Depreciation in property items during the year ending June 30, 1914 (deduction)	5,645 13
4.	Additions and betterments for the year ending June 30, 1914	46,884 40
5.	New construction (Rialto extension)	115,347 81
6.	Changes as per supplemental report made subsequent to hearing	7,065 49
	Total	$430,052 56

The numerous details of these figures are set out in the department's reports before me, and I do not consider it necessary here to substantiate all calculations. The carrier is in possession of all the data and agrees to their correctness. I will only go shortly into the reasons for making the changes listed under item six in the last enumeration, which were the result of the testimony introduced at the hearing before me and the reinspection of the property subsequently. The carrier made the claim that too high rates of depreciation had been applied to several items of its property by the engineering department.

In the item *grading* it was claimed the rates of appreciation, to allow for solidification and seasoning of the roadbed, were not high enough. A new grading item, on the basis of the carrier's condition percentages, would add $622.48 to the $28,405.38 as submitted by the engineering department, and since on this small road it is possibly true that average conditions might not altogether apply, I am willing to accept the carrier's rate of appreciation.

In the item *pile and frame trestles*, it was found that the average life of certain structures and of certain material in the structures was less than used by the engineering department in its determination of the condition per cent, and a reinspection of construction data determined the true state of affairs. The result is that there should be added to this account $640.27, which has been done.

The same objection applies to the item *culverts*, which was increased $353.96.

The carrier was of the opinion that the condition per cent of ties, as shown in the engineering department's report, was too low. A careful check of the actual condition of the ties in this carrier's track, based on replacements since the original ties were put in, was made, and practically substantiated the engineering department's figure.

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The minute check of the condition of the ties resulted in greater accuracy, however, and for this reason $248.35 was added to the original estimate of the reproduction cost less depreciation. The reasons for making changes in the *rail* account have been previously mentioned under the heading reproduction cost. These result in an increase, under reproduction cost less depreciation, of $4,450.44.

In the item *frogs and switches and track fastenings and other material,* slightly greater unit prices were adopted after further investigation, which reflected on the reproduction cost less depreciation and increased this value $339.27.

The carrier claimed that the depreciated value of a steam locomotive was considerably too low. The department thereupon made another very thorough investigation into this matter. It finds, with the advantage of additional data not in possession of the department at the time of the original investigation, that rather than being too low this figure is too high; and a reduction in this item of $209.00 is made.

These and other smaller changes affect the overhead and interest and contingency percentages. The corrections made are as follows:

Engineering	$242 52
Grading	622 48
Pile and frame trestles	640 27
Culverts	353 96
Ties	248 35
Rails	4,450 44
Frogs and switches	254 97
Track fastenings and other material	84 30
Tracklaying and surfacing	57 04
Electric power transmission	89 44
Steam locomotives (deduction)	209 00
Law expenses	48 50
Interest and commission	156 19
Other expenditures	26 03
Total	$7,065 49

In a number of other and minor matters in which the carrier objected to the methods and results of the engineering department's estimate of the reproduction cost less depreciation, I am unable to agree with the carrier's contention and am persuaded to allow the engineering department's figures to stand.

Considering, therefore, all of the evidence in this case, together with the testimony introduced at the hearing, I find as a fact that the reproduction cost less depreciation, as that term has heretofore been defined, of the operative property of this carrier, as of June 30, 1914, is the sum of $430,052.55.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of December, 1914.

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EXHIBIT A.

Name of owner, Wm. G. Henshaw; operating company, Cresent City Railway; division, Riverside-Bloomington; from Rialto to Riverside; miles, main line track, 6.49; miles, yard tracks, etc., 0.47; total, 6.96.
Valuation as of June 30, 1913; joint main line, 1.53 miles; total, 1.53 miles.

Class No.	Form No.	I. C. C. Acct. No.	Classes	Original cost	Reproduction value	Cond. per cent	Present value
1	1	2	Right of way and station grounds		$203,041 00		$203,041 00
2	2	3	Real estate				
3	3	4	Grading		30,476 73		31,358 18
4	4	5	Tunnels				
5	5	6	Steel bridges and trusses				
6	6	6	Pile and frame trestles		19,451 81		14,319 57
7	7	6	Culverts		4,029 35		4,029 35
8	8	7	Ties		16,866 18		13,185 51
9	9	8	Rails		27,695 02		24,278 18
10	10	9	Frogs and switches		3,704 18		3,188 67
11	11	10	Track fastenings and other material		4,367 53		3,852 79
12	12	11	Ballast		7,052 60		7,052 60
13	13	12	Tracklaying and surfacing		9,473 73		8,524 77
14	14	13	Roadway tools		244 26		258 10
15	15	14	Fencing right of way		829 03		598 62
16	16	15	Crossings and signs		497 50		466 31
17	17	16	Interlocking plants				
18	18	16	Signal apparatus				
19	19	17	Telegraph and telephone lines		222 62		179 60
20	20	18	Station buildings and fixtures		1,196 49		952 79
21	21	18	Platforms, walks, paving and curb		26 16		18 31
22	22	19	General office buildings and fixtures				
23	23	20	Shop buildings and engine houses				
24	24	20	Transfer and turntables, cinder pits, etc.				
25	25	20	Miscellaneous shop buildings and structures				
26	26	21	Shop machinery and tools				
27	27	22	Water stations		130 80		106 64
28	28	23	Fuel stations				
29	29	24	Grain elevators				
30	30	25	Storage warehouses				
31	31	26	Dock and wharf property				
32	32	27	Electric light plants				
33	33	28	Electric power plants				
34	34	29	Electric power transmission		15,609 79		14,243 33
35	35	30	One-half interest San Francisco Interchange		2,800 66		2,632 63
36	36	31	One-third interest Salt Lake Interchange		1,604 67		1,524 44
			Total classes 1 to 36, inclusive		$349,420 11		$333,826 20
37		1	Engineering 4 per cent, 1 to 36, inclusive		13,976 80		13,353 05
38	37	32	Transportation of men and material		100 00		100 00
39	38	33	Rent of equipment				
40	38	34	Repairs of equipment				
41		35	Earning and operating expenses during construction				
42		35½	Injuries to persons				
43		36	Cost of road purchased				
			Total classes 1 to 43, inclusive		$363,496 91		$347,279 25
44	39	37	Steam locomotives		22,180 00		11,700 00
45		38	Electric locomotives				
46	40	39	Passenger train cars				
47	41	40	Freight train cars		10,656 00		7,377 00
48	42	41	Work equipment		850 00		680 00
49	43	42	Floating equipment				
			Total classes 1 to 49, inclusive		$397,182 91		$367,036 25
50		43	Law expenses 1½ per cent, classes 1 to 36, inclusive		5,241 30		5,007 39
51	44	44	Stationery and printing				
52	44	45	Insurance				
53	45	46	Taxes		46 87		46 87
			Total classes 1 to 53, inclusive		$402,471 08		$372,091 21
54		47	Interest and commission, 3.5 per cent, classes 1 to 53, inclusive		14,086 49		13,023 19
55	45	48	Other expenditures				
56			Contingencies, 3.6 per cent, classes 1 to 53, inclusive		14,488 96		13,395 28
57	46		Stores and supplies on hand for use in California	$15,227 28	15,227 28		15,227 28
			Grand total		$446,273 81		$413,736 96
			Average per mile for main line track		68,763 30		63,749 91

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EXHIBIT B.

Owning company, Wm. G. Henshaw, operating as Cresent City Railway; valuation unit, entire line; from Riverside to Bloomington; counties, Riverside and San Bernardino.
Valuation as of June 30, 1913; submitted with report of H. G. Weeks; date compiled May, 1914; main line first track, 6.49 miles; second track, .74 miles; total, 7.23 miles.

Class No.	Form No.	I. C. C. Acct. No.	Classes	Original cost	Reproduction cost	Cond. per cent	Reproduction cost less depreciation
37	--	1	Engineering		$7,005 08	100	$7,005 08
1	1	2	Right of way and station grounds		109,419 42	100	109,419 42
2	2	3	Real estate				
3	3	4	Grading		29,335 74	106	31,138 58
4	4	5	Tunnels				
5	5	6	Steel bridges and trusses				
6	6	6	Pile and frame trestles		22,317 11	65	14,465 93
7	7	6	Culverts		4,683 95	92	4,329 17
8	8	7	Ties		15,548 75	76	11,892 98
9	9	8	Rails		24,144 05	90	21,763 78
10	10	9	Frogs and switches		2,195 40	80	1,756 77
11	11	10	Track fastenings and other material		4,839 13	83	3,991 48
12	12	11	Ballast		7,405 23	100	7,405 23
13	13	12	Tracklaying and surfacing		9,448 37	86	8,159 58
14	14	13	Roadway tools		352 88	75	264 66
15	15	14	Fencing right of way		820 54	70	574 37
16	16	15	Crossings and signs		827 18	91	752 15
17	17	16	Interlocking plants				
18	18	16	Signal apparatus				
19	19	17	Telegraph and telephone lines		233 75	62	144 42
20	20	18	Station buildings and fixtures		1,290 16	86	1,104 65
21	21	18	Platforms, walks, paving and curb		26 81	70	18 77
22	22	19	General office buildings and fixtures				
23	23	20	Shop buildings and engine houses				
24	24	20	Transfer and turntables, cinder pits, etc.				
25	25	20	Miscellaneous shop buildings and structures				
26	26	21	Shop machinery and tools				
27	27	22	Water stations		138 38	80	110 70
28	28	23	Fuel stations				
29	29	24	Grain elevators				
30	30	25	Storage warehouses				
31	31	26	Dock and wharf property				
32	32	27	Electric light plants				
33	33	28	Electric power plants				
34	34	29	Electric power transmission		16,494 16	89	14,668 02
35	35	30	Gas producing plants				
36	36	31	Miscellaneous structures				
38	37	32	Transportation of men and material				
39	38	33	Rent of equipment				
40	38	34	Repairs of equipment				
41	--	35	Earning and operating expenses during construction				
42	--	35½	Injuries to persons				
43	--	36	Cost of road purchased		4,405 33	82	3,620 42
44	39	37	Steam locomotives		10,235 00	79	8,038 00
45	--	38	Electric locomotives				
46	40	39	Passenger train cars				
47	41	40	Freight train cars		10,456 00	62	6,471 00
48	42	41	Work equipment		1,039 00	79	821 00
49	43	42	Floating equipment				
50	--	43	Law expenses		1,401 02	100	1,401 02
51	44	44	Stationery and printing				
52	44	45	Insurance				
53	45	46	Taxes				
54	--	47	Interest and commission		5,239 29	100	5,239 29
55	45	48	Other expenditures		873 22	100	873 22
57	46	--	Stores and supplies on hand for use in California		89 94	100	89 94
			Grand total		$290,264 89	91	$265,519 63
			Average per mile for main track		44,724 94		40,912 12
			Total "road" I. C. C. accounts, 1 to 36		260,931 42	93	242,586 16
			Total "equipment" I. C. C. accounts, 37 to 42		21,730 00	71	15,330 00
			Total "general expense" I. C. C. accounts, 43 to 48		7,513 53	100	7,513 53

Estimated market value of nonoperative land $17,590.00, and original cost of other nonoperative property $24,926.35.

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EXHIBIT C.

Name of owner, Wm. G. Henshaw, operating as Cresent City Railway; division, entire line; from Riverside to Rialto; miles, main line track, 9.85; miles, yard tracks, etc., .86; total, 10.71.

Valuation as of June 30, 1914; H. G. Weeks, Field Inspector; H. G. Weeks, Office Compiler; date compiled, October 10, 1914; total mileage, 10.71.

Acct. No.	I. C. C. Class No.	Form No.	Classes	Original cost	Reproduction cost	Cond. per cent	Reproduction cost less depreciation
1	1	2	Right of way and station grounds		$153,887 48		$153,887 48
2	2	3	Real estate				
3	3	4	Grading		44,619 56		47,034 38
4	4	5	Tunnels				
5	5	6	Steel bridges and trusses				
6	6	6	Pile and frame trestles		30,900 89		22,527 71
7	7	6	Culverts		5,392 77		5,391 10
8	8	7	Ties		23,356 45		19,976 54
9	9	8	Rails		43,567 77		40,652 87
10	10	9	Frogs and switches		5,486 98		4,853 43
11	11	10	Track fastenings and other material		11,787 55		10,742 83
12	12	11	Ballast		12,105 01		12,105 01
13	13	12	Tracklaying and surfacing		14,450 49		13,049 36
14	14	13	Roadway tools		448 10		359 88
15	15	14	Fencing right of way		820 54		533 35
16	16	15	Crossings and signs		1,706 00		1,624 38
17	17	16	Interlocking plants				
18	18	16	Signal apparatus				
19	19	17	Telegraph and telephone lines		1,812 97		1,716 11
20	20	18	Station buildings and fixtures		2,314 47		2,078 57
21	21	18	Platforms, walks, paving and curb		26 81		17 69
22	22	19	General office buildings and fixtures		617 97		617 97
23	23	20	Shop buildings and engine houses				
24	24	20	Transfer and turntables, cinder pits, etc.				
25	25	20	Miscellaneous shop buildings and structures				
26	26	21	Shop machinery and tools				
27	27	22	Water stations		138 38		103 79
28	28	23	Fuel stations				
29	29	24	Grain elevators				
30	30	25	Storage warehouses				
31	31	26	Dock and wharf property				
32	32	27	Electric light plants				
33	33	28	Electric power plants				
34	34	29	Electric power transmission		30,060 09		27,223 65
35	35	30	Gas producing plants				
36	36	31	Miscellaneous structures				
			Total classes 1 to 36, inclusive				
37	....	1	Engineering, -- per cent, 1 to 36, inclusive		$8,559 98		$8,559 98
38	37	32	Transportation of men and material				
39	38	33	Rent of equipment		317 20		317 20
40	38	34	Repairs of equipment				
41	....	35	Earning and operating expenses during construction				
42	..	35½	Injuries to persons				
43	....	36	Cost of road purchased		4,405 33		3,436 46
			Total classes 1 to 43, inclusive				
44	39	37	Steam locomotives		$31,126 97		$28,142 97
45	....	38	Electric locomotives				
46	40	39	Passenger train cars				
47	41	40	Freight train cars		10,112 35		5,517 35
48	42	41	Work equipment		1,039 00		758 00
49	43	42	Floating equipment				
			Total classes 1 to 49, inclusive				
50	....	43	Law expenses, -- per cent, classes 1 to 36, inclusive		$2,049 52		$2,049 52
51	44	44	Stationery and printing				
52	44	45	Insurance				
53	45	46	Taxes				
			Total classes 1 to 53, inclusive				
54	....	47	Interest and commission, -- per cent, classes 1 to 53, inclusive		$6,976 93		$6,976 93
55	45	48	Other expenditures		1,499 24		1,499 24
56	....	....	Contingencies, -- per cent, classes 1 to 53, inclusive				
57	46	....	Stores and supplies on hand for use in California		8,298 80		8,298 80
			Grand total		$457,885 69		$430,052 55
			Average per mile for main line track		42,753 10		40,154 59

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DECISION No. 1984.

R. L. SWANSON

vs.

PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 564.

Decided December 4, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled case having made written application to the Railroad Commission of the State of California that said case be dismissed,

It is hereby ordered that said case be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 4th day of December, 1914.

DECISION No. 1985.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE ONE HUNDRED THOUSAND DOLLARS OF BONDS.

Application No. 1418.

Decided December 4, 1914.

Applicant applies for permission to issue $100,000.00 face value 6 per cent bonds for the purposes of refunding certain outstanding notes aggregating $51,896.74, to apply upon accounts payable in the sum of $17,495.69, the balance for additions and betterments to plant, which application is granted, said bonds to be sold at not less than 90 and provided that detailed list of proposed improvements be first submitted for the Commission's approval.

Warren Gregory, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Coast Valleys Gas and Electric Company in the matter herein applies for authority to issue $100,000.00 of its first mortgage 6 per cent bonds. The applicant proposes to use the sum of $69,392.43 to extinguish notes payable and certain accounts payable and to apply the balance upon additions and betterments. It is proposed to expend $10,000.00 for additional feeder and distribution lines in and about King City. The applicant has submitted no details for additional extensions and betterments.

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Coast Valleys Gas and Electric Company conducts a water, gas and electric utility business in Monterey County, operating in Salinas, Monterey, Pacific Grove, King City and other localities in Monterey County. The affairs of this corporation have been considered in previous hearings before this Commission. In these hearings evidence has been presented tending to establish a value of applicant's properties not less than approximately $1,100,000.00. The applicant itself has presented estimates of value as high as $1,600,000.00, but these estimates have been subject to very general revision by the engineering staff of this Commission.

The applicant has an outstanding issue of $900,000.00 of bonds.

For the twelve months ending September 30, 1914, the applicant presented the following statement of earnings:

Gross earnings:		
Electric	$173,562 96	
Gas	44,868 86	
Water	21,302 09	
Miscellaneous	8,166 11	
Total earnings		$247,900 02
Expenses:		
Operating expenses	$128,848 34	
Taxes	11,869 31	
Total operating expenses and taxes		140,717 65
Net earnings		$107,182 37
Interest on bonds	$52,917 00	
Interest on floating debt	6,033 97	
Uncollectible accounts	712 49	
Miscellaneous deductions from surplus	171 51	
Miscellaneous additions to surplus	324 20	
Depreciation	12,572 12	
Total deductions		72,082 89
Net income		$35,099 48

It is provided in applicant's mortgage and deed of trust to Mercantile Trust Company of San Francisco, dated March 1, 1912, that bonds may be certified up to $1,000,000.00 for the full cost of applicant's properties. Thereafter, under the terms of this indenture, bonds may be issued up to only 80 per cent of the cost of additions and betterments.

It is provided also in this trust indenture that bonds shall be issued only when the net earnings of the applicant shall have been for a period of twelve months, ending not more than sixty days prior to the application for the certification of said bonds, at least one and three-fourths times the interest on the bonds outstanding and on bonds for which application is made.

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The applicant proposes to use the proceeds from the bonds herein sought as follows:

To pay notes payable	$51,896 74
To apply on accounts payable	17,495 69
For extensions and feeder lines in and about King City	10,000 00
Other additions and betterments	20,607 57
Total	$100,000 00

It was stated by the applicant that it proposed, if negotiations could be completed successfully, to construct a gas plant to serve the Presidio at Monterey, and that this would require an expenditure of approximately $20,000.00. The applicant requested, however, that the order be not made specific as to this item.

It appears that the applicant will be able to sell an additional 700 horsepower when it shall have constructed the new feeders and service lines in the vicinity of King City. This power will be used for agricultural pumping purposes.

The applicant states that it has made no contract for the sale of its bonds, but believes that it will find a market for them at not less than 90 per cent of face value.

In view of all of the circumstances of this case, I recommend that the application be granted and submit the following form of order:

ORDER.

Coast Valleys Gas and Electric Company having applied to this Commission for authority to issue $100,000.00 of its first mortgage 6 per cent forty-year bonds, and a hearing having been held and it appearing that the purposes for which the applicant proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Coast Valleys Gas and Electric Company be given authority and it is hereby given authority to issue $100,000.00 of its first mortgage 6 per cent forty-year bonds under its trust indenture to Mercantile Trust Company of San Francisco, dated March 1, 1912.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be sold shall be sold so as to net the applicant not less than 90 per cent of the face value thereof plus accrued interest.

(2) The proceeds from the sale of said bonds shall be used for the following purposes and not otherwise:

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(a) To extinguish the following notes payable:

Name	Date	Interest	Amount
California Railway and Power Company	July 1, 1913	7%	$5,900 00
California Railway and Power Company	July 1, 1913	7%	10,000 00
California Railway and Power Company	July 1, 1913	7%	10,000 00
Sierra and San Francisco Power Company	July 31, 1913	7%	7,251 34
Sierra and San Francisco Power Company	July 31, 1913	7%	3,726 21
Sierra and San Francisco Power Company	July 31, 1913	7%	7,666 95
Sierra and San Francisco Power Company	July 31, 1913	7%	7,352 24
Total			$51,896 74
(b) To apply upon accounts payable incurred for additions and betterments			$17,495 69
(c) For feeders, extensions and service lines in the vicinity of King City to serve prospective consumers			10,000 00
(d) For other additions and betterments			20,607 57

(3) The authority herein granted to the applicant to sell bonds "for other additions and betterments in the sum of $20,607.57" shall become effective only after the applicant shall have filed a list of such additions and betterments and this Commission shall have issued a supplemental order approving said list of proposed additions and betterments.

(4) Coast Valleys Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(6) The authority herein granted shall apply to such bonds as shall have been issued on or before December 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of December, 1914.

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DECISION No. 1986.

IN THE MATTER OF THE RATES OF THE NEVADA-CALIFORNIA-OREGON RAILWAY, WITHIN THE STATE OF CALIFORNIA.

Case No. 560.

Decided December 4, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

This proceeding was instituted on the Commission's own motion upon petition of the board of supervisors and certain residents of Modoc County. A hearing was held in the matter at Alturas on September 17, 1914, and at that time a stipulation was filed by the representatives of the original petitioners and the carrier requesting that the matter be dismissed without prejudice upon the filing by the Nevada-California-Oregon Railway of a revised schedule reducing its passenger fares between points in Modoc County and other points on the line of said Nevada-California-Oregon Railway in California, from 7 cents to 5 cents per mile, to become effective on November 1, 1914. Thereafter, by amended stipulation, it was agreed that said reduced passenger fares should become effective on December 1, 1914.

Whereas, the said Nevada-California-Oregon Railway has filed with this Commission its Local Passenger Tariff No. 65, C. R. C. No. 92, reducing its passenger fares between all points in Modoc County and between all points in Modoc County and other points on its line in California to 5 cents per mile, and said reduced fares became effective on December 1, 1914,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 4th day of December, 1914.

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DECISION NO. 1987.

JOHN WALL ET AL.

vs.

NEVADA-CALIFORNIA-OREGON RAILWAY.

Case No. 536.

Decided December 7, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTARY ORDER.

In the supplementary order in this proceeding issued on November 30, 1914, the Nevada-California-Oregon Railway was ordered to construct a depot in the town of Alturas at the intersection of its line of railroad and Fourth street, upon the understanding that that point was the Rice crossing, so-called. This impression was received from the testimony of witnesses in this proceeding, which was conflicting and uncertain in so far as it related to the location by streets of the so-called Rice crossing. It appears upon further examination of the record that the Rice crossing is the point of intersection of defendant's line of railroad and Third street in Alturas; therefore, the supplementary opinion and order in this matter heretofore issued on November 30, 1914, should be amended and the words "Third street" substituted for the words "Fourth street" wherever used therein; and

It is hereby ordered that the supplementary opinion and order issued in this proceeding on November 30, 1914, be and the same is hereby amended by substituting the words "Third street" for the words "Fourth street" wherever in that opinion and order the latter words are used.

Dated at San Francisco, California, this 7th day of December, 1914.

DECISION NO. 1988.

IN THE MATTER OF THE APPLICATION OF PENINSULAR RAILWAY FOR AUTHORITY TO CONVEY A CERTAIN LOT OF REAL PROPERTY TO THE TOWN OF LOS GATOS, SANTA CLARA COUNTY, CALIFORNIA.

Application No. 1390.

Decided December 7, 1914.

S. F. Leib, for Peninsular Railway Company.

S. D. Balch, for town of Los Gatos.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was filed with the Commission on October 27, 1914, by the Peninsular Railway Company, which desires authority to convey to the town of Los Gatos the following described parcel of land:

> "Beginning at a point, distance 18.8 feet, by radial offset, from the present center line of the Peninsular Railway Company's (formerly of the San Jose and Los Gatos Interurban Railway Company's) curve at the foot of Main street, said point being the southeast corner of the Casa Loma Hotel property; thence along the boundary of said property N. 43° 06′ E., a distance of 31.5 feet; thence by a curve, concentric with the said center line of the Peninsular Railway Company's (formerly of the San Jose and Los Gatos Interurban Railway Company's) curve and having a radius of 69 feet a distance of 43.5 feet to a point in the southerly boundary line of the said Casa Loma Hotel property and thence along said boundary line S. 61½° E., a distance of 22.1 feet to the place of beginning. The above real property containing .006 of an acre."

The track of the Peninsular Railway which runs past this parcel of land is located on a public street. This piece of land was originally secured to give ample clearance from the rails of the track to the curb line. The deed of conveyance contained provision that the property should be later deeded to the town of Los Gatos and that it should be used only for street purposes. I find that as a matter of fact it is now used for street purposes, and that it is valuable only for such use, and that the title to it should properly be vested in the town of Los Gatos.

I recommend the following form of order:

ORDER.

Peninsular Railway Company, a corporation, having applied for an order authorizing the conveyance to the town of Los Gatos of certain real property in Los Gatos, Santa Clara County, California, more particularly described hereinbefore, and a public hearing having been held, at which all interested parties were represented, and it appearing that it is right and proper that the title to said real property should be vested in the town of Los Gatos,

It is hereby ordered that said application be and the same is hereby granted.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of December, 1914.

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Decision No. 1989.

IN THE MATTER OF THE APPLICATION OF THE HALF MOON BAY LIGHT AND POWER COMPANY TO SUBSTITUTE CERTAIN RATES FOR POWER SERVICE.

Application No. 672.

Decided December 7, 1914.

Applicant having entered into a contract to serve the Western Hydrated Lime Company with electric energy for power purposes at a price upon which the latter company based a number of contracts upon which it entered, and such rates being materially increased when this Commission, at request of applicant, established rates for power service; applicant now requests that it be permitted to charge the Western Hydrated Lime Company the contract rate formerly in effect, which application is granted, provided that when such contract expires, applicant shall charge consumer, provided it shall still desire energy, the rates then in effect for that class of service.

J. O. McElroy, for Applicant.

Report of the Commission.

Loveland, *Commissioner.*

This is an application by the Half Moon Bay Light and Power Company for permission to suspend as to the Western Hydrated Lime Company the power rate fixed by this Commission in its Decision No. 915, and to substitute therefor the power rate in effect prior to above decision.

On October 31, 1912, applicant entered into a three-year contract with the Western Hydrated Lime Company, hereafter referred to as the consumer, whereby it agreed to furnish electric service to the latter's sand hoist located at Montara, where the consumer has installed a 40 horsepower motor. The contract rate was in accordance with the regular power schedule then on file with this Commission, as follows:

TABLE I.

Power Rates of the Half Moon Bay Light and Power Company, October 31, 1912.

4 cents per kilowatt hour for the first	100	kilowatt hours per month.
3½ cents per kilowatt hour for the next	200	kilowatt hours per month.
3 cents per kilowatt hour for the next	200	kilowatt hours per month.
2½ cents per kilowatt hour for the next	500	kilowatt hours per month.
2¼ cents per kilowatt hour for the next	1,000	kilowatt hours per month.
2 cents per kilowatt hour for the next	2,000	kilowatt hours per month.

Minimum, $1.00 per month per horsepower.

The contract provided further that the energy should be delivered and metered at 11,000 volts, which necessitated the purchase of line transformers by consumer at an investment of some seven hundred ($700.00) dollars. This is contrary to applicant's usual practice, being the only case in which the utility has not supplied transformers. On or about August 1, 1913, the consumer contracted to sell a certain quan-

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tity of sand each year for twelve years thereafter. Due to competitive conditions the margin of profit in this contract was slight and the cost of energy the largest item entering into the total cost of sand delivered. The consumer's basis for determining energy cost was his contract with applicant previously referred to, under which he had been operating for some time.

The use of electric energy at consumer's plant during nine months of the year 1913 was as follows:

TABLE II.

Use of Electric Energy by Western Hydrated Lime Company's Sand Plant, Year 1913.

Month	Consumption	Bills
January	1,168 kilowatt hours	$40 09
February	2,280 kilowatt hours	57 65
March	1,440 kilowatt hours	40 00
April	1,860 kilowatt hours	48 85
May	2,400 kilowatt hours	60 00
June	1,260 kilowatt hours	40 40
July		
August	2,370 kilowatt hours	59 40
September	2,640 kilowatt hours	64 80
October	2,520 kilowatt hours	62 40
November		
December		
Totals, 9 months	17,938 kilowatt hours	$473 50

On August 1, 1913, the Half Moon Bay Light and Power Company applied to this Commission to raise certain of its rates, among which was the power schedule contained in this contract. Notice of the hearing was sent to the consumer, but stated, however, that application had been made to raise rates for agricultural service which would not affect him. Due to this defective notice the consumer was not represented at the hearing, at which time the rates of applicant were investigated and increased power rates fixed.

At the average annual consumption of this plant the contract rate is approximately 2.6 cents per kilowatt hour. The increased rate granted by the Commission's order in this application amounts to about 4.5 cents per kilowatt hour, at the same consumption, which increase would be disastrous to consumer's business whose contracts for sand were based on the contract rate hereinbefore referred to. Applicant, appreciating the injustice of increasing this consumer's rate under the circumstances above outlined, now asks authority to restore the original contract rate.

In connection with recent investigations heretofore made by the

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Commission it developed that the cost of energy supplied by petitioner to installations of similar size and character where the transforming equipment was supplied by the company, was as follows:

TABLE III.

Cost of Energy.

Demand cost	$8.50 per horsepower per year.
Energy cost	.013 per kilowatt hour.

The above rate would correspond to approximately 2.72 cents per kilowatt hour under the average operating conditions at the plant of the Western Hydrated Lime Company. Inasmuch as the difference between the contract rate hereinbefore referred to and the rate shown in Table III, which the Commission has since found to be reasonable, may well be justified under the circumstances of this case where the consumer has himself furnished the transformers and received energy at 11,000 volts, I can see no reason why the contract should not be permitted to remain effective.

In view of the above I believe that the application should be granted. While granting this application I desire to impress strongly upon this applicant the necessity for uniformity in its rates and practices, which have heretofore been extremely flexible.

I recommend the following form of order:

ORDER.

The Half Moon Bay Light and Power Company, having applied to this Commission for permission to suspend as to the Western Hydrated Lime Company its regular rates for power service and to serve said company according to its contract therewith; and a public hearing having been held and the Commission being of the opinion that this application should be granted,

It is hereby ordered that the Half Moon Bay Light and Power Company be and is hereby authorized to serve the Western Hydrated Lime Company according to the rate and during the term as specified in the contract between said parties dated October 31, 1912. That after the expiration of this contract, applicant shall serve (if consumer desires service) at the regular rates then in effect for this class of service.

The foregoing opinion and order are hereby ordered approved and filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of December, 1914.

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DECISION No. 1990.

IN THE MATTER OF THE APPLICATION OF FRESNO INTERURBAN RAILWAY COMPANY FOR AUTHORITY TO ISSUE STOCKS AND BONDS.

Application No. 1084.

Decided December 8, 1914.

Applicant, desiring to expend certain sums for overhead and equipment in connection with its proposed line of railway between Fresno and Clovis, applies for permission to issue 20 shares of stock of the par value of $100.00 and $14,700.00 face value of bonds to be sold at not less than 90 for such purposes, and it appearing that applicant has purported to issue 100 shares of stock for incorporation purposes without the necessary authorization, for a consideration of $10.00 per share, which stock if sold at 80 would net the necessary funds for above mentioned purposes: Applicant authorized to issue 100 shares of its capital stock of the par value of $100.00 per share, said stock to be sold at not less than 80, to replace stock heretofore purported to be issued, the balance of proceeds to be used, $4,700.00 for equipment and the remainder to cover engineering, administration, legal, etc., expenditures so far as available.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

FOURTH SUPPLEMENTAL ORDER.

This Commission having heretofore authorized the applicant herein to issue $110,000.00 of its ten-year 6 per cent bonds and 580 shares of its capital stock of the par value of $100.00 per share, or a total par value of $58,000.00, for the purpose of constructing a line of electric railway between Fresno and Clovis, a distance of approximately nine miles; and the applicant herein in a supplemental application having now asked this Commission for authority to issue an additional 20 shares of its capital stock to be sold at $80.00 per share and to issue also an additional $14,700.00 of its ten-year 6 per cent bonds to be sold at 90 per cent of face value; and the applicant herein having stated that it proposed to use the proceeds from the sale of said 20 shares of stock and said $14,700.00 of bonds for the purpose of paying engineering, administration, legal and contingent costs in the sum of $10,600.00, and for the payment of the cost of equipment in the sum of $4,230.00;

And it now appearing to this Commission that the applicant herein has purported to issue 100 shares of its capital stock of the par value of $100.00 per share for purposes of incorporation for and in consideration of $10.00 per share, and it appearing further to this Commission that said 100 shares of stock issued upon incorporation should have yielded to this applicant more than 10 per cent of the par value thereof; and it appearing further that if said 100 shares of stock had been sold on a basis of $80.00 per share this applicant would have

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received an additional sum of $7,000.00 for said 100 shares of stock; and it appearing further that the sum of $7,000.00 would be ample to pay for applicant's intended equipment and applicant's engineering, administration, legal and contingent costs, in so far as these costs have been submitted to this Commission; and it appearing further that the purposes for which the applicant herein proposes to use the proceeds from the sale of the securities herein requested are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Fresno Interurban Railway Company be granted authority and is hereby granted authority to issue 100 shares of its capital stock of the par value of $100.00 per share.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The stock herein authorized to be issued shall be issued to replace 100 shares of applicant's stock purported to have been issued for the purpose of incorporation at the price of $10.00 per share.

2. The stock herein authorized to be issued shall be sold so as to net the applicant not less than $80.00 per share.

3. The proceeds from the sale of the stock herein authorized to be issued shall be used by the applicant as follows:

(*a*) For the purchase of equipment, $4,700.00.

(*b*) For the payment of engineering, administration, legal and contingent costs in such amount as may be available.

4. Fresno Interurban Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. Applicant herein shall report within thirty days after the stock herein authorized to be issued shall have been issued stating that the certificates of stock, in substitution for which this stock is authorized, have been called in and canceled.

6. The $10.00 per share heretofore paid on the 100 shares of stock issued upon incorporation shall be deemed to be part payment upon the price herein fixed of $80.00 per share.

The authority herein given is given as to such stock as shall have been issued on or before June 30, 1915.

Dated at San Francisco, California, this 8th day of December, 1914.

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DECISION NO. 1991.

JOHN NOUGUIER ET AL.

vs.

J. BENTON VAN NUYS ET AL.

Case No. 488.

Decided December 9, 1914.

Complainants allege that defendants herein demand and collect a deposit of $20.00 before installing service connection and meter, and defendants stipulating their willingness to abide by an order of the Commission, without the necessity of a hearing, directing the refunding of such deposits and the discontinuance of such practice; defendants directed to refund amounts deposited by complainants and install service connections and meters free of charge.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

It was alleged in the complaint herein that defendant refused to connect certain lots in the city of San Gabriel with its water system unless the sum of $20.00 was deposited with defendant.

Answer was made to the complaint admitting the refusal to make such connection except upon the condition named, and thereafter a stipulation was entered into between plaintiff, John Nouguier, and J. Benton Van Nuys, Annie H. Van Nuys Schweppe and Kate Van Nuys Page as the proper defendants in said action, providing that said plaintiff should pay to said defendants the sum of $20.00 to cover the cost of installing a meter and service connection from the water main of the defendants to the property line of said plaintiff, as set forth in the complaint, said sum to be held to await the final decision of the Railroad Commission in this matter.

A like stipulation was entered into between C. H. M. Shibley, a co-plaintiff of Nouguier, and the same defendants. This case was then set down for hearing, and subsequently and before the hearing a stipulation was filed whereby defendants agree that the case may be submitted upon the pleadings and without any hearing, and that an order of the Railroad Commission may be entered requiring the defendants to repay to the plaintiffs the money heretofore paid to said defendants for the service connections heretofore made to the property of said plaintiffs from the system of said defendants, and that said order may contain a provision that said defendants will not in future require any consumer to pay for the cost of installing a service connection. The stipulation also contains a provision that the order of the Commission shall be made without prejudice to the rights of the defendant to submit

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to the Commission hereafter new rules or regulations covering the deposits upon installation of meters and service connections.

This stipulation covers the demand made in the complaint, and I recommend that an order be made in accordance therewith. The order may properly contain a provision that the rights of the defendants to submit to the Commission hereafter rules or regulations covering the matter of deposits or the cost of the installation of service connections or meters are not waived.

Herewith a form of order:

ORDER.

Complaint having been made by John Nouguier and C. H. M. Shibley against J. Benton Van Nuys, Annie H. Van Nuys Schweppe and Kate Van Nuys Page, and it having been stipulated that an order may be made without a hearing herein,

It is hereby ordered, by the Railroad Commission of the State of California, that said defendants forthwith return to said plaintiffs all sums collected by said defendants from said plaintiffs as a deposit or payment for the service connections and meters installed by said defendants between their water system and the property line of plaintiffs.

It is hereby further ordered that said defendants shall not hereafter collect from any consumer as a deposit or final charge the cost of installing a meter, or service connection between the water system of said defendants and the property line of said consumer, provided that defendants shall have the right to hereafter present to the Commission for its consideration any rules and regulations covering the subject of deposits or charges for service connections and meters.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of December, 1914.

DECISION NO. 1992.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AN ORDER AUTHORIZING THE ISSUANCE OF PROMISSORY NOTES IN RENEWAL OF PROMISSORY NOTES NOW OUTSTANDING.

Application No. 1454.

Decided December 11, 1914.

Applicant authorized to renew two promissory notes aggregating the sum of $5,890.86, which notes were originally issued in part payment for betterments to system.

F. W. Frost, for Applicant.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

Applicant asks authority to issue two promissory notes, one for the principal sum of $2,945.46, with interest at 6 per cent per annum, to be dated December 11, 1914, and made payable ninety days after date to Railway Improvement Company; the other to be for the sum of $2,945.40, with interest at 6 per cent per annum, to be dated January 11, 1915, and payable ninety days after date to Railway Improvement Company.

These notes are to be used to refund notes for like amounts which were given in part payment for coasting time recorders and engraved motormen's keys, which were purchased by applicant from Railway Improvement Company and are now a part of applicant's plant.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Application having been made by San Francisco-Oakland Terminal Railways for an order authorizing the issue of two promissory notes, and a hearing having been had and it appearing to the Commission that the proceeds from the issuance of said promissory notes are not in whole or in part reasonably chargeable to operating expenses or to income, and that it is reasonably necessary that applicant issue said notes in order to refund certain of its obligations,

It is hereby ordered, by the Railroad Commission of the State of California, that San Francisco-Oakland Terminal Railways is hereby authorized to issue two promissory notes, payable to Railway Improvement Company, one for the principal sum of $2,945.46, with interest at 6 per cent per annum, to be dated December 11, 1914, and to be payable ninety days after date; the other promissory note to be for the principal sum of $2,945.40, with interest at 6 per cent per annum, to be dated January 11, 1915, and to be made payable in ninety days after date.

These promissory notes shall be used only for the purpose of retiring and cancelling promissory notes heretofore issued to Railway Improvement Company for like amounts.

Immediately upon issuing the promissory notes hereby authorized report thereof shall be made to the Railroad Commission of the State of California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of December, 1914.

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DECISION No. 1993.

IN THE MATTER OF THE APPLICATION OF THE MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF NOTES.

Application No. 1095.

Decided December 12, 1914.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, on May 23, 1914, made an order in this proceeding authorizing applicant to renew certain notes under certain conditions, which notes include two notes held by the United States Aluminum Company for $60,000.00 and $18,000.00, respectively; and it appearing that applicant is unable to renew said notes at 6 per cent per annum, as provided in said order, and desires to renew said notes at a rate of interest of 7 per cent per annum,

It is hereby ordered that applicant be and it is hereby authorized to renew said notes at a rate of interest not to exceed 7 per cent per annum and under the other conditions specified in said order of May 23, 1914.

Dated at San Francisco, California, this 12th day of December, 1914.

DECISION No. 1994.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC CAR DEMURRAGE BUREAU TO MAKE CERTAIN CHANGES IN ORDER NO. 2 OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA PRESCRIBING UNIFORM RULES FOR DEMURRAGE AND RECIPROCAL DEMURRAGE FOR THE BROAD GAUGE RAILROADS UNDER ITS JURISDICTION.

Application No. 907.

IN THE MATTER OF PRESCRIBING UNIFORM RULES FOR DEMURRAGE FOR STANDARD GAUGE RAILROADS SUBJECT TO THE JURISDICTION OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Case No. 554.

Decided December 12, 1914.

Application of E. E. Mote, agent, Pacific Car Demurrage Bureau, for permission to make certain changes in demurrage rules prescribed by this Commission and proceedings on Commission's own motion to investigate into the efficiency of present rules.

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Held—Certain changes in present rules recommended, together with additions thereto, and general order containing said amended rules approved and ordered into effect on and after January 1, 1915.

E. E. Mote, for Pacific Car Demurrage Bureau.

George D. Squires and *Henley C. Booth*, for Southern Pacific Company.

E. W. Camp, for Atchison, Topeka and Santa Fe Railway Company.

A. P. Mathews, for Western Pacific Railway Company.

Wm. R. Wheeler and *Seth Mann*, for Traffic Bureau of San Francisco Chamber of Commerce.

Chas. Clifford, for Oakland Chamber of Commerce.

H. E. Woolner, for Los Angeles Grain Exchange.

J. A. Keller, for Cement, Tolenas and Tidewater Railroad.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This proceeding is to inquire into the efficiency of the demurrage rules prescribed by this Commission for standard gauge railroads, subject to its jurisdiction, in its General Order No. 2, of March 28, 1911, and which became effective on May 1, 1911, and has since remained in effect substantially as originally promulgated. The proceeding arose in the following manner:

On October 16, 1913, E. E. Mote, manager of the Pacific Car Demurrage Bureau, on behalf of the carriers that are members of that bureau, filed with this Commission an application reciting that the operation of the rules for the months since their adoption had developed some defects and injustices in their requirements and prayed that certain changes be made in Rule 12 with a view to eliminating the requirements or regulations which had proved burdensome and unfair to the carrier and of no particular benefit to the shippers. Thereafter, the Commission instituted on its own motion Case No. 554 for the purpose of broadening the proceeding so as to permit the consideration of the efficiency of each and every rule of the demurrage order instead of only one or two rules and enable such a revision of any or all rules as might appear necessary from the evidence, complaints having been filed by shippers from time to time since the adoption of the order that certain provisions thereof cast an undue burden upon them. These matters were heard at the same time, and at the hearing each rule was taken up and separately discussed in connection with any proposed changes therein and evidence thereon submitted, and in this opinion the rules will each be considered in their order and in connection with the evidence relating thereto.

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Rule 1. Days not counted in computing free time and demurrage.

In computing the time which is allowed carriers for furnishing cars and shippers for loading and unloading the same, no account will be taken of Sundays and the following holidays:

1. The first day of January.
2. The twelfth day of February.
3. The twenty-second day of February.
4. The thirtieth day of May.
5. The fourth day of July.
6. Labor day.
7. The ninth day of September.
8. The twelfth day of October.
9. General election day.
10. General primary election day.
11. Thanksgiving day.
12. The twenty-fifth day of December.

When a holiday falls upon a Sunday, the following Monday is a holiday.

It is proposed to change this rule so as to exclude any legal holiday, not therein specifically enumerated, in computing the free time allowed carriers for furnishing cars and shippers for loading same, the intention being to provide a more flexible rule and one that would automatically exclude any legal holiday established by proclamation or act of the legislature. To that end it is suggested that instead of specifically designating each day to be exempted in computing free time that a rule generally exempting all legal holidays, "national, state and municipal," be adopted. It is my opinion, however, that such a rule as is proposed would be prolific of more difficulties than now or may hereafter arise because of the definiteness and inflexibility of the present rule. Disputes would no doubt constantly occur as to the proper interpretation of these terms and as to what days are properly included, while, on the other hand, the list of holidays in the rule embraces all the regular legal holidays observed in this state and any doubt as to the exemption of any or all can not exist; moreover, but one case has come to the attention of the Commission wherein an injustice resulted from the operation of the present rule. That case arose from the fact that there happened a succession of three holidays, the intermediate one of which was established by a special proclamation of the governor and consequently was not specifically exempted by the present rule from the computation of free time. In that case the demurrage charges collected for the special holiday were ordered refunded, for the reason that the carrier's office was not open for business on that day and manifestly it would be unjust to assess demurrage when the consignee can not secure delivery because of the carrier's own act or omission. Under the rules as they stand at present the carrier could waive collection of demurrage in such cases.

On the whole, I believe the operation of this rule has been generally satisfactory and I am of the opinion that no change therein should be

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made to meet a condition that may not again rise, or at least is very unlikely to frequently occur.

Rule 2. Free time to load and furnish billing.

(*a*) Forty-eight hours' free time, computed from the first 7 a.m. after cars are placed or held upon the order of shippers, will be allowed to complete the proper loading of all commodities and to furnish forwarding directions, except that twenty-four hours will be allowed on oil tank cars.

(*b*) When empty cars placed or tendered for loading on orders are not used, the party ordering the same shall be subject to demurrage charges, from the time of placement or tender until released, together with a charge for the empty haul of $5.00 per car when moved from another station, or of $2.50 per car when switched from a point within the yard limits.

It is proposed to change this rule so that on such empty cars as are placed for loading or are held upon the order of the shipper after 1:00 p.m., the free time will not begin to run until 1:00 p.m. of the day following. The effect of such a change would be to give additional free time in which to load shipments in many cases and, in my opinion, can be justified only on the ground that the free time allowed under the present rule is insufficient to meet the needs of the shipping public. This has not been shown and, in fact, the proponent of this change testified that it was quite an unusual thing for demurrage to accrue on cars placed for loading. Informal complaint has, however, been made to the Commission that because of the increased size of the cars the free time allowed under the present rule is insufficient to meet the needs of shippers in many cases, and it has been urged that where a car is loaded to its maximum capacity and in excess of the minimum weight required for the commodity shipped, that additional free time should be allowed. Undoubtedly 48 hours is not sufficient time in which to load all carload shipments, but in many cases it is more than ample and I believe it may be considered a liberal average of the time required to load carload shipments, under ordinary circumstances. It has been considered as a fair allowance of time in which to load shipments practically throughout the United States, and I am of the opinion that more conclusive proof should be required than has been offered that such a period is generally insufficient before the Commission should alter the present rule in this regard.

Rule 3. Free time to unload.

(*a*) Forty-eight hours' free time, computed from the first 7 a.m. after cars are placed and notification of arrival is given to consignee, will be allowed for unloading all commodities except oil from tank cars, for which twenty-four hours' free time will be allowed.

(*b*) Whenever it shall appear to the satisfaction of the Commission that the failure of a railroad to furnish a car or cars for loading within the time fixed by these rules, or the failure of the shipper or consignee to load or unload the same, was due to causes beyond the control of such carrier, shipper or consignee, no payment shall be required to be made on account of such delay.

Several amendments to this rule are proposed.

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It is suggested to add thereto a provision that when the same car is both unloaded and reloaded each transaction shall be considered as separate and distinct from the other. The practice under the rule as it stands is to allow the maximum free time—ninety-six hours—in those cases where the same car is unloaded and reloaded by the same party, it being impracticable generally in such cases to determine when the last part of the load is removed from the car and the first installment of the next load put into the car. Again, the unloading and loading is frequently simultaneous, hence if independent check of the two operations were kept, it might result in certain cases that much less time than ninety-six hours' free time would be allowed in which to unload and load cars, as is the practice under the present rule. It is my opinion that the proposed change should not be made.

It is also proposed to add to this rule a provision that carriers must give notice in writing to consignee when unable to place cars for unloading on account of disability of the consignee or the crowded condition of the switch, and in such an event demurrage shall not begin to run until 7 a.m. following the day of such notice. The proponent of this change states that its purpose is to compel carriers to render adequate switching service, but it does not appear in the record how such an amendment would bring about this result. Undoubtedly the requirement of notification of the carrier's inability to make the placement of the car or cars is for the purpose of establishing a record of the attempt to do so and of its inability on account of the switch or spur being occupied by cars being loaded or unloaded, but it is not plain, nor can I conceive why the carrier should be required to notify the consignee of a condition of which he should have knowledge if he is reasonably familiar with the conduct of his own business, if original notification of the arrival of the shipment is given, unless perhaps the carrier through its own fault delays placing the car. In my opinion, if this change were made it would lead to increased detention of cars for the reason that the second notice or notice of what is usually termed constructive placement could not in many cases be given until the day following the notice of arrival and subsequent to the 7 a.m. thereafter, as much of the switching is done just prior to that time and in such cases the consignee would receive additional free time of twenty-four hours. I do not believe that it is the intention of the proponents of this amendment to advocate any such rule whereby they would profit by their own negligence or by conditions for which the carrier would in no way be to blame. It appears plain that the consignee should not have more free time to unload cars, the placement of which he has hindered or the failure of placement of which is not chargeable to the carriers, than cars the prompt placement of which has

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not been so obstructed. If, however, notification of arrival is not given and it is the custom to give notification by delivery of the cars upon private or industrial tracks, then notification should be given of readiness to deliver when tracks are occupied, as provided in rule relating to notification.

A third proposition is to amend this rule by a provision that when cars loaded with hay or grain are held for "recognized and efficient inspection," and, likewise, "when cars are held for the surrender of the original bill of lading" and notice is not given by the carrier before 12 o'clock, noon, twenty-four hours' free time from 7 a.m. of the following day will be allowed to give disposition of the car. These changes are advocated primarily in the interest of brokers or commission merchants. Shipments to such consignees are usually made on so-called "order" bills of lading transmitted by shipper to the bank of the consignee attached to shipper's draft for the value of the consignments made, samples taken therefrom, the purchaser's acceptance of the consignment secured and the bill of lading obtained from the bank before directions are given to the carrier for the disposition or placement of the loaded car. This requires some time, and it is alleged that on account of the difficulty frequently experienced in locating in the carrier's terminals or yards the cars containing such shipments of hay and grain, that 48 hours is insufficient in which to perform the necessary details before a sale of the lading of the car can be consummated, disposition of the car given the carrier and the car unloaded. The proponents of this change gave no specific instances where demurrage had accrued on such shipments, but it may well be that in many cases 48 hours would not suffice to perform the details of such a transaction. On the other hand, it is not contended that 48 hours is insufficient to unload such shipments under ordinary conditions. In fact, the proponent of the change admits that cars containing grain are usually unloaded in much shorter time, and it appears that the disability under which such users of railroad equipment labor is due largely to their method of doing business and not something for which the carrier is responsible.

Demurrage rules should be formed so as to meet the reasonable transportation needs of shippers, but, manifestly, no rule should be adopted which, in its operation, may likely result in imposing a burden upon one class of shippers or upon the carriers merely for the purpose of lessening the cost of conducting the business of another class of shippers when the only necessity advanced for the rule is the peculiar method of conducting the business of the latter, and is unconnected with the transportation of the articles. The carriers' cars are vehicles of transportation and it should not be expected that they be used as warehouses or places of business. Such a practice would be unfair

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to rights of other shippers as well as unduly burdensome to the transportation business. Under reciprocal demurrage this practice might place upon the carriers the double burden of furnishing facilities for conducting a particular kind of business for one set of shippers, and the payment of reciprocal demurrage to other shippers because of inability to furnish such cars to other shippers. If the practice were extended to apply in all cases where inspection was necessary and where shipments were made on "order notify" bills of lading, serious congestion at terminals might result. And, finally, if additional time were permitted in cases of "order notify" shipments, what transportation reasons are there why it should not also be allowed on straight shipments? In view of these facts, I am not disposed to recommend the adoption of the proposed amendment. It should be impressed upon the carriers, however, that it is incumbent upon them to place cars for "inspection" in reasonably convenient locations and from their records be able to locate cars without such delay as the proponents of this change allege has existed in the past.

A further change is proposed in this rule whereby five days' free time shall be allowed for unloading carload shipments on ocean-going vessels and for government inspection and custom entry, but as a similar suggestion has been made as a separate proposition it will be considered in discussing that proposition. It is also suggested in connection with this rule that on cars placed for unloading after 1 p.m. that the free time in which to unload shall not commence to run until 1 p.m. of the following day. This is correlative to the proposition for amending Rule 2, relating to the free time to load cars, and, as stated in considering that proposed change, its justification must essentially rest upon the inadequacy of the time allowed for unloading under the present rule. It was not shown at the hearing, nor has it otherwise come to the notice of this Commission, that 48 hours after placement of the car and notification of arrival is generally insufficient to unload carload shipments. Hence, there appears no reason for amending the rule as suggested. It is also suggested that the term "actual placement" be defined to mean placement of cars "in an accessible position for unloading or at a point previously designated by the consignee" for the reason that the carriers frequently compute free time from the 7 a.m. following notification, although actual placement of a car or cars in a place at which unloading could be effected is not made until subsequent to that time. Such a construction of this rule is clearly contrary to its plain reading. The free time should be computed from the first 7 a.m. following actual placement of car for unloading, unless such placement is impossible because of some act of omission on the part of the shipper or consignee. It was not shown at the hearing that it is the

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practice of the carriers to apply this rule in such a manner as to work a hardship upon shippers, and in the absence of such evidence I am not disposed to recommend that the rule be amended by including a definition of the term "actual placement," which itself is likely to engender disputes and misunderstandings as to its proper interpretation and which, as far as I am at present informed, are now generally absent.

Rule 4. Cars stopped in transit.

When cars are stopped in transit upon request of shippers or consignees for any purpose, twenty-four hours' free time, computed from arrival at point of stoppage, will be allowed.

It is proposed that this rule be amended so that the free time allowed thereunder shall be computed from 7 a.m. following notification that the car has been stopped in transit given to the party ordering its stoppage. As the reading of the present rule will indicate, the free time is computed from the time of the arrival of the car at the point of stoppage and notification of stoppage is not required.

It is urged that the same practice should obtain as to cars stopped in transit as in the case of cars diverted or reshipped after arrival at the original billed destination. Rule 6 relating to the free time allowed for disposition in such cases provides that the free time shall be computed from 7 a.m. following notice of arrival at destination, and if there are no differences in the condition surrounding the services the requirements should be the same.

The carriers contend that a more expensive service is rendered in the stoppage of cars in transit than in a diversion or reconsignment as those terms are used in Rule 6, for the reason that the telegraphic communications necessary to effect the former service are more numerous and because of the necessary switching of the car out of the train in which it is being transported and subsequent switching into another train for movement to the destination finally determined upon, for which no charge is imposed in the case of cars stopped in transit, whereas a charge is made in connection with the service of diversion or reconsignment of many commodities. These contentions were uncontroverted and it appears reasonable to conclude that the circumstances justify a more limited period of free time in which to give disposition of cars stopped in transit than in the case of cars reconsigned or diverted after reaching original billed destination and particularly in the absence of any showing that the present rule has in practice worked a hardship upon shippers generally.

Rule 5. Cars for loading or unloading on tracks of industrial plants.

When cars are placed on interchange tracks of industrial plants which perform their own switching service, the regular free time for loading or unloading will be allowed, computed from the first 7 a.m. after delivery upon such industrial interchange tracks.

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It was originally proposed to substitute for this rule a rule whereby additional free time would be allowed for switching on all cars delivered for loading or unloading to industrial or other small railroads not interchanging cars on the established per diem basis with the larger carriers, but the proposed amendment was withdrawn, hence it is necessary to give further consideration thereto.

Rule 6. Change in destination.

Twenty-four hours' free time computed from the first 7 a.m. after notice of arrival at the billed destination will be allowed when cars are diverted or reshipped to another destination.

It is proposed to amend this rule so that the free time allowed when cars are reshipped from the original billed destinations will equal the free time which would be allowed were the cars actually unloaded and reloaded, whenever the through rate from the point of origin to the final destination equals the combination of the local rates upon the original destination. The effect of such a rule would be to allow 96 hours' free time to reship cars unless the rate from the original shipping point to final destination were less than the aggregate of the local rates to and from the original destination.

Another proposition is to modify the rule so that "Free time at destination shall be 48 hours, computed from the first 7 a.m. after notification of arrival at original destination," when the through rate from original point of shipment to the final destination equals or exceeds the combination of the locals to and from the point of original destination. As will be noted this proposition is identical with the preceding one, except that 48 hours' free time is proposed instead of 96 hours' free time.

The proponents of this modification, in its justification, urge that inasmuch as the consignee would have 48 hours in which to unload the car at the first destination and another 48 hours in which to reload that or another car, and as the same rate would be assessed on the second movement as though the shipment had originated at the original billed destination, therefore the first consignee is entitled to at least 48 hours if not 96 hours' free time, although the operation of unloading and reloading is not actually performed.

I am of the opinion that this conclusion proceeds from an erroneous conception of the reason for this rule. The purpose of the rule is to permit consignees or shippers sufficient time in which to furnish the carrier reconsignment or diversion orders, and if 24 hours is sufficient in which to do this, manifestly a greater time should not be allowed regardless of the free time allowed for loading and unloading. The rules, as to the free time for loading and unloading, are made to meet the reasonable needs of shippers for performing that service, and

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for any delay over that period a proper penalty may be assessed, for the reason that carriers and other shippers to that extent are unreasonably deprived of the use of that equipment, and it does not follow that a similar period should be allowed to perform another service that may not reasonably require that time.

No good reason was shown why cars awaiting rebilling instructions should be entitled to more free time than a car initially loaded at the same point and similarly awaiting billing instructions, nor was it shown that 24 hours is insufficient in which to furnish carriers reconsignment or diversion orders.

It was also proposed in this connection that an explanatory note be carried in connection with this rule, reading as follows:

NOTE—A reconsignment is a privilege permitted by tariff under which the original consignee has the right of diversion. In event of the presence of such a privilege in the tariff twenty-four hours' free time is allowed for the exercise of that privilege by the consignee. A reshipment under this rule is the making of a new contract of shipment by which, under a new rate, the consignee forwards the same car to another destination.

However, no evidence was introduced to show the necessity of this proposed change. I am of the opinion that no change should be made in the present rule.

Rule 7. Cars held for payment of freight or other charges.

Cars destined to the sidings of connections within the switching limits of the point of delivery held by the initial line for the payment of charges, will be allowed twenty-four hours' free time, computed from the first 7 a.m. after notification of arrival.

No change is proposed in this rule.

Rule 8. Cars refused by connections.

When cars are refused by a connecting line because of the inability of consignee to receive and unload the same, the local agent of the carrier desiring to make delivery to connecting line will immediately notify the consignee of the cars so held, after which free time will begin to run the same as though such car or cars had been placed for unloading.

It is proposed to amend this rule by providing therein that notification to consignee shall be in writing when cars are refused by a connecting line because of the inability of consignee to receive and unload same. No good reason appears for requiring carriers to give notification in writing in such cases and it is my opinion the notification in this case should be no different from that generally which is hereafter provided for in a rule relating to notification. The change proposed should not be made.

Rule 9. Weather.

Whenever the weather during the period of free time is so severe or inclement that it is impossible or impracticable to secure means of loading or unloading freight, or when from the nature of the goods to be loaded or unloaded such conditions of the weather would cause serious injury or damage, the time of the

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continuance of such weather shall be added to the free time allowed the shipper or consignee for loading or unloading; provided, that on the request of the carrier the Commission will determine whether or not, under all the conditions, such exception should be allowed.

It is proposed to modify this rule to provide that whenever the inclemency of the weather renders it impossible to load or unload freight, that the time of the continuance of such weather shall be added to the free time for loading and unloading. It will be noted that under the present rule the inclemency of the weather must occur during the period of the free time, otherwise no additional free time is allowed.

The proponents urge that if unloading or loading of the car is made impossible by reason of weather conditions, even though two days or 48 hours of fair time preceded in which the unloading or loading might have been performed, that the free time should be extended over the period of time such conditions continue. The carrier's position is that in allowing a sufficiently reasonable time in which to load or unload its obligation is terminated and that for any detention thereafter the shipper is responsible.

After a full consideration I am persuaded that where through a shipper's or consignee's own fault a car is not loaded or unloaded during the period of free time and thereafter he is prevented from so doing by weather conditions, that such shipper or consignee is properly chargeable with such detention. The carrier in affording forty-eight hours' free time in which to load or unload carload shipments has presumably afforded sufficient time in which to perform that service, and if the weather prevents the service being performed during that period it should extend the period sufficiently to permit of a reasonable time in which to load and unload. In addition to this, the carrier should not be expected to waive the running of demurrage when weather conditions prevent the loading or unloading of cars after the expiration of the free time during which period fair weather has prevailed, of which the shipper or consignee failed to take advantage. I am of the opinion that no change should be made in this rule.

Rule 10. Rate of demurrage.

Demurrage and reciprocal demurrage accruing under these rules will be charged at the rate of $3.00 per car per day or fraction of a day.

The payment by any railroad company of demurrage provided in these rules shall in no way invalidate or offset any claim any shipper or consignee may have for damages occasioned by delay or negligence on the part of such railroad company, nor shall anything herein contained be held to lessen the duties of any common carrier in the shipment of live stock or other perishable property.

No change is proposed in this rule.

Rule 11. Bunching.

(a) *Cars for Loading.*—When, by reason of delay or irregularity of the carrier in filling orders, cars are bunched and placed for loading in accumulated

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numbers in excess of daily orders, the shipper shall be allowed such free time for loading as he would have been entitled to had the cars been placed for loading as ordered.

(*b*) *Cars for Unloading.*—When, as a direct result of the act or neglect of carrier, cars destined for one consignee at one point, and transported via the same route, are bunched in transit and delivered in accumulated numbers in excess of daily shipments, claim shall be presented to the carrier's agent before the expiration of the free time, and the consignee shall be allowed such free time as he would have been entitled to had the cars been delivered in accordance with the daily rate of shipment.

It is proposed to change section "B" of this rule to provide that when cars are bunched "at the originating point and in transit or at destination" and delivered in accumulated numbers, the consignee shall be allowed such free time as he would have been entitled to had the cars been delivered in accordance with the daily rate of shipment.

The present rule, as will be noted, provides that when cars are "bunched in transit" and delivered in accumulated numbers, "claim shall be presented to the carrier's agent before the expiration of the free time" and the consignee shall be allowed such free time as he would have been entitled to had cars been regularly delivered. The proponents claim that cars are bunched at originating points and that the rule should provide for extension of the free time in such cases; also, that it is not always possible to present claim for additional free time to the carrier's agent before the expiration of such free period. It is my opinion that the present wording of the rule covers bunching by the carrier at originating point as well as at destination, and that the term "in transit" is broad enough to include bunching by the carrier at any time, from the time it receives the shipment until it delivers it to the consignee at destination. Moreover, his provision relates only to the delivery of cars to consignees, and if through the carrier's fault cars were delivered for unloading in accumulated numbers the rule would operate to extend the free time, regardless of where the bunching occurred. The provision contained in the present rule that "claim shall be presented to the carrier's agent before the expiration of the free time," which it is suggested be eliminated and to which proposition the carriers do not object, does not stop a shipper or consignee from filing a claim for refund of demurrage charges subsequent to the period of free time if he finds that demurrage has accrued because of bunching by the carrier, but merely places in the discretion of the delivery carrier's agent the matter of extending the period of free time when the consignee can show that through the carrier's own fault demurrage is likely to accrue on shipments waiting to be unloaded. The proposition to eliminate this provision seems reasonable, and upon examination there appears no conclusive reasons why if, through the carrier's fault, cars are bunched, that the free time for unloading

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should not be extended by the carrier's agent whether the consignee makes application for the extension during the period of free time or during the period of demurrage time. I therefore recommend that this provision in this rule be eliminated.

Rule 12. Reciprocal demurrage.

(*a*) *Notification.*—When a shipper desires cars he shall give notice to the carrier on whose line his consignment originates, setting out the date on which he desires to have cars placed for loading, the number of cars, the character of freight and its destination. When cars are required at agency stations, such notice shall be in writing. To facilitate the making of such application, every railroad shall provide and keep at every agency station blanks for that purpose. When cars are desired for non-agency stations, any notice to any agent of the company required to furnish the cars shall be sufficient which gives the agent of the carrier actual notice covering the matters required to be set out in writing for agency stations.

(*b*) *Time Allowed to Furnish Cars.*—A shipper may order cars for placing at any time within fifteen (15) days from the time of the order, and the carrier shall be required to place the cars on the date required by the shipper, except that on orders of three cars or less the carrier shall be allowed forty-eight (48) hours to place such cars for loading after the first 7 a.m. following the receipt of the order; seventy-two (72) hours for any number of cars more than three and less than six; ninety-six (96) hours for any number of cars more than five and less than eight; one hundred and twenty (120) hours for any number of cars more than seven and less than eleven; and for each three additional cars in excess of ten, twenty-four (24) hours' additional time. Each of such periods of time shall begin to run at the first 7 a.m. following the receipt of the order.

(*c*) *Reciprocal Demurrage Bond.*—Any carrier that fails to place cars under the provisions of this rule shall pay to the shipper $3.00 per day for the number of cars in the shipper's order not so placed, until such time as such shipper's order shall be filled, unless released at the shipper's request; provided, however, that any shipper who desires to take advantage of this rule must file with the carrier from whom he desires to order his cars a good and sufficient bond in the sum of twenty (20) dollars, if he desires to order but one car, and fifteen (15) dollars for each additional car. This bond shall be security for the payment on behalf of the shipper to the carrier for the use of any car or cars ordered by such shipper which shall be set out by the carrier and not used by the shipper, at the rate of $3.00 per day, computed from the time the car is set out. Each carrier shall furnish, on request of any shipper, and shall keep at all of its agency stations, blank forms of bonds, for the purpose herein set out, which forms shall be submitted to this Commission and shall bear the mark of its approval. When any shipper who does not have on file with such carrier a bond as provided herein, shall order a car or cars, it shall be the duty of the agent of such carrier receiving such order to notify such shipper of the provisions of this rule, and only after such notification and the failure of the shipper to file such bond, shall the carrier be exempted from the payment to the shipper for failure to furnish cars as herein provided.

(*d*) *Additional Security.*—It is the intent of this rule that the carrier be protected against irresponsible shippers, and when a bond is once filed by a shipper under the provisions of this rule, such bond shall satisfy the requirements of this rule until the carrier shall have been forced to resort to it for payment for cars ordered and not used, in which event the shipper shall be required to furnish a new bond, as herein provided; except that if at any time the carrier questions the sufficiency of such bond, the Commission, after considering the facts, may require the furnishing of additional security on the part of the shipper.

It is proposed to make several changes in this rule.

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The Pacific Car Demurrage Bureau, the petitioner in Application No. 907, proposes that the rule be modified so that—

First—All orders for cars shall be in writing.

Second—That such orders in addition to specifying the character of the freight and its destination also specify the routing.

Third—That when cars are required at an agency station the notice shall be given to the agent at such station, and if required at a non-agency station, notice shall be given to the next agent on either side of such non-agency station.

Fourth—That section "C" of this rule be so amended that carriers may not hereafter be required to notify every shipper, who does not have on file a reciprocal demurrage bond, when applying for cars, of the provision of the reciprocal demurrage rule to relieve it from liability for reciprocal demurrage.

The Pacific Car Demurrage Bureau in justification of the changes proposed by it, contends that where shippers desire to avail themselves of the reciprocal feature of the demurrage rules, the order for cars should be in writing and should be filed with the agent at the loading point, or in case no agent is maintained at the loading point, then with the next agency on either side for the purpose of obtaining a definite record of the transaction and because the agents at those points are in a better position to keep a record of the transaction, particularly of the time of the filing of the order and the placement of the cars, and thereby avoid errors and disputes as to liability for demurrage, and written notice is required when cars are ordered for loading at agency stations and there is no reason for the distinction between agency and non-agency stations in the matter of ordering cars and that it is just as essential that definite record be had in writing of the transaction at a non-agency station as at an agency station. Likewise, this petitioner contends that it is unreasonable to permit shippers to order cars for loading at non-agency stations from any agent of the carrier, however remote from the point of loading. No claim is made by the petitioner that it is likewise unreasonable to permit shippers to order cars for loading at agency stations from any agent of the carrier, although petitioner contends that orders for cars for loading at agency stations should be filed with the agent at the loading point. The petitioner urges that the difference in conditions surrounding agency and non-agency stations will be fully recognized by limiting the placing of orders for cars at non-agency stations with the agency on either side thereof, and that if orders for cars are permitted to be placed at points remote from the loading point that the carrier will be subject to considerable expense and confusion by the duplication of orders and otherwise. On the other hand, it is contended that carrier's agents are frequently able to fill

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orders for cars for loading thereat or at adjacent non-agency stations from the empty car supply on hand at such stations, and if shippers are required to order from those agents that the business of the carrier can be conducted more orderly and expeditiously.

A counter-proposition submitted by the Los Angeles Grain Exchange proposes to amend the rule so that orders for cars for loading at either agency or non-agency stations may be placed with any agent of the carrier from whom the cars are desired, regardless of the proximity of such agent to the loading point, and that "he shall transmit such notice immediately by telegram to the car distributing superintendent of the division on which the station belongs." It is also proposed by this exchange that section 3 of this rule be modified so that a shipper who desires to take advantage of the reciprocal demurrage rule may file the special bond as is now required under the rule, or the general indemnity bond which is given by shippers to whom the carrier extends credit, as security for the payment of freight charges, and which it is proposed be amended so as also to include a guarantee of payment of reciprocal demurrage.

The Oakland chamber of commerce proposes that this rule be modified so that orders for cars shall be in writing, and that in addition to other things the order shall specify the routing via which the loaded car is to move. To this extent the change proposed by it is practically the same as that advocated by the Pacific Car Demurrage Bureau. In addition, however, this petitioner proposes that the rule also provide that orders for cars shall be accepted by any agent of the carrier from whom cars are desired, regardless of the proximity of such agent to the loading point. This is similar to the change proposed by the Los Angeles Grain Exchange. It also proposes that the rule, instead of prescribing the amount of the bond to be filed in each case as a security for payment by the shipper of reciprocal demurrage on cars ordered and not used, provide that the amount of the bonds shall be determined by the amount of business transacted by shippers.

No material objection was offered to the proposed amendment that all orders for cars shall be in writing, which is understood to include orders by telegraph, and that such orders shall specify among other things the character of freight, its destination and routing, and I am of the opinion that in this regard the rule should be amended. The proposition that cars for loading shall be ordered from the agent at the point of loading or in case there is no agent at that point from the next agent on either side, does not meet with similar approval, as is evidenced by the counter-proposal of the Los Angeles Grain Exchange and the Oakland Chamber of Commerce and others at the hearing. Considerable testimony was offered by witnesses for the carriers as to the present

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method of filling orders for empty cars, but I am not convinced that it is impracticable or unreasonable to permit shippers who intend availing themselves of the reciprocal demurrage rule to order cars from any agent of the carrier. This is done in case the shipper does not intend taking advantage of the reciprocal demurrage feature and in my opinion should also be permitted in case he elects to do so. It is my opinion that it is entirely practicable for the carrier to transmit the order for the car or cars to the agent at or near the loading point, and who has the record of the placement of the cars thereby ordered and that no great additional expense will be placed upon carriers by such a practice. Moreover, in actual practice, most orders for cars will undoubtedly be placed with the agents at the point of loading or the agency station next to the point of loading, and in only comparatively few cases will cars be ordered by parties at other than the point of loading. If the ordering of cars under the reciprocal demurrage rule is restricted as proposed it would, in my opinion, largely impair its usefulness.

In support of the proposition of this petitioner to amend section "C" of this rule by eliminating the requirement of notification of the reciprocal demurrage provision thereof, it is urged that the provision is no longer necessary for the protection of shippers and has been the cause of considerable hardship and inconvenience to the carriers. It is shown that a wide distribution of the demurrage tariff has been made throughout the state and that the shipping public has been fully informed of its rights under this rule, and further that shippers have requested in many cases that they be not annoyed by continued notification of the provision of the reciprocal demurrage rule when ordering cars. No objection to the elimination of this provision has been made to the Commission, and, in fact, representatives of shippers at the hearing stated that they had no objection to its cancellation. In view of these facts, I see no reason for continuing this provision in the reciprocal demurrage rule. However, carriers should be required to give wide distribution to the new issue of demurrage rules and in addition thereto place in two conspicuous places in each freight depot a large placard calling attention of shippers to the provisions of the reciprocal demurrage rule.

There appears, in the record, no good reason for including in this rule a provision, as suggested, that all orders for cars shall be transmitted immediately to the "car distributing superintendent." The record shows that in most cases cars are furnished from the supply on hand at the loading point, and in other cases orders are transmitted to the freight train conductor who has the necessary authority to furnish same from empties picked up by his train.

The proposition to change the general indemnity bond to secure the payment of reciprocal demurrage by the shipper as well as freight

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charges and the proposition that the amount of the reciprocal demurrage bond shall be determined by the amount of the business transacted by the shippers in my opinion is not justified by the evidence. The present demurrage bond can not be said to be burdensome in either its requirements as to the amount thereof or as to the sureties required—individual sureties being permitted. On the other hand, the general indemnity bond covers interstate and intrastate traffic, and in most cases individual sureties are not accepted. Furthermore, there is no legal obligation upon carriers to accept a bond for the payment of freight charges, it being purely discretionary with the carrier whether or not it extends credit to shippers.

Rule 13. Cars Delayed by Connection.

Any railroad which shall receive from a connecting railroad company one or more cars of freight consigned to any point on or beyond its line shall, within twenty-four hours after such cars are offered to it or are placed on its transfer or other tracks, forward said car or cars over its railroad toward destination, unless such delay is caused by circumstances over which such carrier has no control; and for every delay of twenty-four hours, or fraction thereof, on the part of said railroad company in forwarding said car or cars, beyond said allowed period of twenty-four hours, said railroad company shall forfeit to the consignee of such car for such delay the sum of $3.00 per day for each and every car so received and not forwarded upon its line within the time above allowed.

No change is proposed in this rule.

Rule 14. Reports to Commission by Railroads.

(*a*) Each railroad subject to the jurisdiction of this Commission shall make a statement monthly to the Commission of the payments made and received by such railroad company for demurrage and reciprocal demurrage paid and collected under these rules. When payments are made by transportation companies under the reciprocal demurrage provisions of this order the report shall set forth in each instance the name and address of the shipper or shippers to whom payments are made, the circumstances giving rise to the liability, the reasons for the delay in furnishing the equipment ordered, the amount of the payment made and the date thereof.

(*b*) Each railroad agent shall keep and preserve a daily record of applications for cars received at his station, both for loading at such station and at nonagency stations ordered from such station, showing such applications in consecutive order and the date on which received, which record shall always be open to the inspection of the Commission, its officers and employees, and to courts of competent jurisdiction during business hours.

No change is proposed in this rule.

Rule 15. Disputes.

Whenever any disputes arise between shippers, consignees and carriers concerning the interpretation of these rules or concerning any claim arising hereunder, the same shall be submitted to the Commission for adjustment.

No change is proposed in this rule.

Rule 16. Publication.

These rules shall be immediately printed by the transportation companies, or their authorized agents, filed with the Commission and distributed to the agents of such transportation companies, and shall constitute their car demurrage tariff.

No change is proposed in this rule.

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PROPOSED NEW RULES.

SWITCHING RULE.

The Los Angeles Grain Exchange proposes a new rule relating to switching service to be incorporated in the demurrage rules prescribed by the Commission to read as follows:

Where a special charge is made for switching to and from industrial spurs in addition to the regular tariff rates, carriers shall be obliged to give one service each morning and one in the afternoon of each day, excepting holidays, as per Rule 1, provided cars are being held by said carrier for placement on any such spur, or at the request of consignee or shipper, and if switchings are not given as above stated consignee or consignor shall not be subject to demurrage charge for that day, which said service has been failed to be performed, or for demurrage resulting from the accumulation of cars on account of not performing this service.

The difficulty of prescribing any practicable, hard and fast rule fair to both the carriers and shippers to govern the switching service of carriers becomes apparent, upon slight examination of the facts surrounding this service. Cars containing state and interstate cars are indiscriminately handled in this service—city ordinances in many cases prohibit the switching of cars upon certain streets during certain periods of the day, thereby limiting the time in which this service can be performed, and the carriers in performing this service have to be governed to a large extent by the convenience and safety of its patrons engaged in loading and unloading cars on spur tracks. Furthermore, under the present rules if, through the failure of carriers to switch spur tracks, loaded cars are held in carrier's yards, demurrage is not properly charged.

If the switching service of the carrier is inadequate that matter should be brought to the attention of this Commission in a separate proceeding and this Commission will investigate the particular matter and issue such order as the facts warrant.

I recommend that no change be made in this rule.

AVERAGE RULE.

The Los Angeles Grain Exchange proposes that a so-called "average rule" be prescribed by the Commission, as follows:

When a shipper or receiver enters into the following agreement the charge for detention to cars provided for by Rule 7, on all cars held for loading and unloading by such shipper or receiver, shall be computed on the basis of average time of detention to all such cars released during each calendar month, such average detention to be computed as follows:

(*a*) A credit of one day will be allowed for each car released within the first twenty-four hours of free time. A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time.

In no case shall more than five days' credit be applied in cancellation of debits accruing on any car, making a maximum of seven days that any car may be held free; this to include Sundays and holidays.

(*b*) At the end of the calendar month the total number of days credited will be deducted from the total number of days debited and $———— per day charged for

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the remainder. If the credits equal or exceed the debits, no charge will be made for the detention of the cars, and no payment will be made to shippers or receivers on account of such excess of credits, nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

(*c*) A shipper or receiver who elects to take advantage of this average agreement shall not be entitled to cancellation or refund of demurrage charges under Rule 9 or Rules 4 and 6 if more than one stoppage in transit or one diversion has been made.

(*d*) A shipper or receiver who elects to take advantage of this average agreement may be required to give sufficient security by bond to the carrier for the payment of balances against him at the end of each month.

It is urged by the proponents of this rule, that, inasmuch as there is no statute or regulation operative in this state requiring carriers to transport loaded cars a certain minimum distance each day, cars are often bunched in transit and delivered in accumulated numbers to consignees, and because of the inability of the consignees to release such accumulated numbers of cars demurrage charges accrue, from which there is no relief under the present demurrage rules, and that car detention has increased under the present demurrage rate of $3.00, resulting in an increase in the aggregate amount collected therefor, and that a "debit and credit" rule should be adopted to offset these conditions.

It is also pointed out by the proponents of this rule that a similar rule has been adopted by the National Association of Railway Commissioners as another reason why it should be adopted in California.

On the other hand, the carriers contend that, while the rule was adopted by the National Association of Railway Commissioners, its operation has proven its ineffectualness towards lessening car detention. In fact, it is alleged that its practical operation has the tendency to bring about the opposite result—that is, to increase car detention. Further, its opponents contend that the rule is discriminatory in favor of large shippers, and that it holds out a reward to consignees for doing that which they are already obligated to do—to promptly release equipment. The opponents of the rule also contend that the adoption of an average rule to apply on California intrastate traffic would subject the lines operating in this state to material and burdensome expense, for the reason that it would be necessary to keep a separate and individual demurrage account with each signer of an average agreement if such a rule were adopted, and further that as such a rule does not obtain in connection with interstate traffic its application to California intrastate traffic would engender endless confusion and dissatisfaction.

Finally, it is urged by the opponents of the rule that the Public Utilities Act authorizing this Commission to establish rules for demurrage contemplates that such rules shall be reciprocal and, therefore, if

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credits are allowed consignees for releasing equipment promptly, credits should likewise be allowed carriers for promptly furnishing equipment, which makes such a rule impracticable in this state.

While it is true that there is no regulation in the State of California requiring that cars be transported a certain distance each day, it is nevertheless true that, when loaded cars transported by the same route are bunched in transit and delivered in accumulated numbers in excess of daily shipments, the consignee is protected from the accrual of demurrage thereon under the so-called bunching rule, and there appears to be no necessity to further protect consignees in such cases. Further, it was not shown that demurrage had actually accrued in the past by reason of the carriers' failure to expeditiously transport carload shipments, or because cars were bunched in transit and delivered in accumulated numbers.

The exhibit introduced by the proponents of the rule to show that car detention, as well as the amount of demurrage collected, during the period of nine months ending with January, 1914, exceeded that for a period of ten months ending with February, 1912, fails in its purpose for the reason that the statement for the nine months ending January, 1914, includes cars held overtime in the states of Arizona, New Mexico and California, in which states there were varying rates of demurrage, while for the period ending February, 1912, the detention is shown for the State of California alone in which a $3.00 demurrage rate was operative and because the comparison is for periods of different duration. However, the records of the Commission indicate that there was a decided increase in car detention and the amount of demurrage collected during a period of ten months ending with February, 1913, as compared with a similar period ending with February, 1912, although the $3.00 demurrage rate was in effect during the entire time.

The evidence submitted by the Pacific Car Demurrage Bureau in this case shows a similar increase in car detention and the amount of demurrage collected.

Exhibit F-3 filed by the Pacific Car Demurrage Bureau shows that during the year of 1913 the cars held overtime were 2.07 per cent of the total cars reported, as against 1.92 per cent for the year of 1912, and that $112,840.00 demurrage was collected for car detention in the year 1912, while $131,253.00 demurrage was collected for car detention in 1913. In explanation of this increase, the Pacific Car Demurrage Bureau states "that the increase is accounted for by detention by contractors of cars of material for the construction of roads under the supervision of the state highway commission; by contractors using material for the construction of several large power plants, and by an oil refinery at Bakersfield without storage capacity

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of its own and which therefore prefers to use tank cars for that purpose, even at $3.00 per day. The net collections were approximately the same in 1913 as in the previous year, considering the increase in cars reported." However this may be, it does not follow that car detention would decrease if the average rule were established in California. The only evidence on this point which is before the Commission in this proceeding seems to indicate that the result would be otherwise. Reports of the working of the average rule in other states were filed by the manager of the Pacific Car Demurrage Bureau, which seem to indicate that in the majority of the states, at least, where this rule is effective, it has not tended to decrease car detention.

Exhibit No. 1 of the Pacific Car Demurrage Bureau shows that during the months of November and December, 1913, and January, 1914, but 5.6 per cent of the cars handled under the "straight rule" were held overtime, while 16.8 per cent of the cars handled under the average plan were held overtime in the states of Illinois, Iowa, Missouri, Minnesota, Kansas, Nebraska, North Dakota, South Dakota, Montana and Colorado. While the evidence on this point is not entirely satisfactory, it is sufficient to support the presumption that present conditions in California in respect to car detention would not be improved by the establishment of the so-called average rule.

The report of the National Association of Railway Commissioners for the year 1909, relating to the average rule, seems to indicate that it was adopted in contemplation of the needs of large shippers, and particularly by those who received large numbers of cars of raw material daily. While the rule is available to all receivers or shippers of carload freight, in practice it would, in the nature of things, be taken advantage of only by the large shippers, and the rule appears to sanction a departure from a car unit basis to a trainload basis to determine the respective rights of carriers and shippers in the use of railway equipment.

In view of these considerations and of the fact that a substantial expense would be imposed upon the carriers were the average rule established in this state, I am not disposed upon the record to recommend that the rule proposed be adopted.

The Public Utilities Act makes it necessary for this Commission to establish reciprocal demurrage rules and to be reciprocal within the meaning of the act the demurrage rule would have to allow the carrier credits for furnishing cars before the expiration of forty-eight hours just as the consignee thereunder would be allowed credits if cars were released before the expiration of forty-eight hours. Such a rule would work hardships on many shippers. To illustrate this point it is only necessary to refer to the fact that many shippers of carload freight, particularly in the country districts, seldom, if ever,

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receive a carload of freight. If such a rule were adopted by which both the carrier and shipper would receive the benefit of furnishing, loading or unloading equipment in less than forty-eight hours, a road would be continually collecting penalties for furnishing equipment in less than forty-eight hours from the shipper in the outlying districts and at the same time only consignees receiving a great many cars of freight would receive any substantial benefit. In other words, the benefits accruing to the railroads would always be derived from one set of shippers who would seldom, if ever, receive any return benefits because of the fact that they seldom receive carload shipments.

NOTIFICATION RULE.

Los Angeles Grain Exchange proposes that a rule relating to the manner of notification be included in the rules prescribed by the Commission reading as follows:

Notice from either the consignee or consignor or from the railroad to consignee or consignor, shall be made in the following manner, and no other notice shall constitute a legal notice otherwise made; each carrier shall notify consignee or consignor, by telephone when possible, providing the name of the consignee or consignor is in the telephone directory, or consignee or consignor has filed a telephone number with carrier, said carrier making a record at the time of such notification of the party's name receiving or giving notification by telephone and the time of day said message is received or given. Such notification shall be sufficient, provided the carrier confirms said notification by a letter to consignee's or consignor's address, or address furnished by consignee or consignor, or as shown by the city directory, and provided the envelope bears a postmark prior to 5 p.m. the same day the telephone notice has been given. Said notice shall be given by letter and not by postal, the envelope to bear a two-cent stamp, and to bear the return address of said carrier. If said notice shall be returned to carrier for any reason, said carrier shall hold same on file, stamping the time of the receipt of its return on said envelope, and the same to be held until all demurrage is settled. If any mistake has been made in the address through the carrier's fault, and the full street address was not shown thereon, where it was available out of the city directory, or as filed by the consignee, said notice will not be considered sufficient, and consignee or consignor shall not be liable for demurrage accruing thereunder. If there is no telephone number on file, or said number of consignee is not in the directory, the mailing of the notice in the manner above stated shall be sufficient, and time shall commence from 7 a.m. the following morning after the date of postmark, provided the postmark on said envelope reads before 5 p.m., except where the tariff provides for additional time. Carrier shall be required to mail a like notice to consignee or consignor when cars are placed at non-agency stations, said notice being mailed from the nearest station to the non-agency station. In this instance the railroad will be only required to give said notice when consignee files an address to be notified with the nearest agent to the non-agency station. Where a railroad is requested in writing by consignee or consignor to notify them on arrival of a car at any station other than the city in which consignee's place of business is, then it shall devolve upon the railroad, at consignee's request, to telegraph the railroad company's agent at city in which the consignee has his place of business or resides, and he shall give notice according to the above rule. The manner in which consignor shall give notice to the railroad company to place or give disposition of empty or loaded cars, shall be given in like manner, by telephone if so desired; but the same must be followed immediately by written notice mailed before 5 p.m., in an envelope bearing the return address of the sender and bearing the correct address of the railroad company to the proper department, or to the proper agent. If for any reason said notice is returned to the consignee or consignor by the post office, consignee or consignor must be responsible

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for the demurrage charges unless a good and sufficient reason shall be shown on the envelope thereof. The railroad shall stamp each notice received from consignor or consignee with the time it was received, the same shall be kept on file until all charges are paid, also retain envelope in which received. If railroad does not receive written notice and consignee or consignor can not show envelope returned through no fault of the consignee or consignor, then consignor or consignee is responsible for demurrage accruing as a result. Where envelopes do not bear the time before 5 p.m. when mailed by the railroad, consignee shall have an additional twenty-four hours, and the same applies to the carrier as to the placing of empties or disposition of cars, provided the consignor or consignee has not mailed notice within the proper time.

It is the general practice of carriers to give to consignees telephone notice of arrival of cars at destination, where the party to be notified has a telephone, and thereafter to confirm same by postal notice, and the record does not indicate that this method has proven generally unsatisfactory or that its insufficiency warrants the Commission requiring that the written advice following the telephonic notice shall be enclosed in an envelope with return directions printed on its face and bear a two-cent postage stamp. Such a requirement would entail large additional expenditures which the Commission, in my opinion, would not be warranted in imposing upon the carriers from the evidence before it. On the other hand, the carriers' practice of sending postal notice with defective and incomplete address thereon should be discontinued, and if in any case demurrage accrues as a result of such error or omission of the carrier, for as such it should be considered, such demurrage should be refunded.

In addition to this manner of notification carriers and shippers have by common arrangement adopted various other methods of notification, in some cases entirely dispensing with the notification in writing and in the absence of evidence to the contrary these customs must be considered satisfactory and I am of the opinion should not be disturbed by requiring that notification in every case shall be in writing.

When notification is incumbent upon either carriers or shippers as a condition precedent to the running of demurrage, the giving or failure to give such notice as a basis of a claim is a matter of proof and it is assumed that carriers and shippers both, in the orderly conduct of their business, have already adopted or will adopt such a system for dating and filing received or returned notices as will facilitate the making of such proof without the Commission's incorporating such detail in a hard and fast rule. Likewise, I am not disposed to recommend that the carriers be required by a rule to give telephonic notice to a consignor or consignee of the arrival of car or cars at any station other than at the station at which consignee conducts his business, as is suggested by the proponents of this rule. Such a requirement would impose an additional and expensive burden upon the

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carrier, which I do not think the Commission would be justified in imposing, from the evidence in this proceeding.

The proposition to extend the free time in cases where the notification of the arrival or placement of cars is not mailed prior to 5 p.m. is practically the same proposition as was submitted in connection with the amendments proposed to Rule 3 and has heretofore been discussed, and for that reason it is not necessary here to give it further consideration. I am of the opinion, however, that some rule relating to the manner in which notification shall be given should be incorporated in the code of demurrage rules and I recommend that a rule relating to notification be therein provided to read as follows:

(*a*) Consignee shall be notified by carrier's agent, in writing, or as otherwise agreed to by carrier and consignee, within twenty-four hours after arrival of cars and billing at destination, such notice to contain point of shipment, car initials and numbers, and the contents, and if transferred in transit the initials and number of the original car. In case car is not placed on public delivery track within twenty-four hours after notice of arrival has been sent, a notice of placement shall be given to consignee.

(*b*) Delivery of cars upon private or industrial interchange tracks, or written notice to consignee of readiness to so deliver, will constitute notification thereof to consignee.

CREDIT RULE.

Oakland Chamber of Commerce proposes that a rule be incorporated in the order of the Commission, prescribing demurrage rules whereunder shippers and consignees shall receive credit for the release of equipment during the first twenty-four hours of free time. The rule suggested reads as follows:

(*a*) When a car is loaded within the first twenty-four hours of free time (free time described in Rule 2) and forwarding directions are furnished carrier's agent, an allowance of one dollar and fifty cents ($1.50) will be made and deducted from the transportation charges applicable from point of shipment to destination.

(*b*) When a car is unloaded within the first twenty-four hours of free time (free time described in Rule 3) and notice to this effect is given carrier's agent, an allowance of one dollar and fifty cents ($1.50) will be made and deducted from the transportation charges applicable from point of shipment to destination. In the event of same shipment being loaded and unloaded within the first twenty-four hours of free time, a total allowance of $3.00 will be made and deducted from transportation charges.

NOTE.—This rule is not applicable to all tank cars, neither is it applicable in the case of where the freight rate from point of shipment to destination is less than 50 cents per ton.

This proposition seems to be based upon an erroneous conception of the principle of demurrage. The forty-eight hours' free time is accorded shippers and consignees for the purpose of loading and unloading cars for the reason that it is considered sufficient generally to meet their needs and not because a shipper or consignee *ipso facto* acquires an interest to that extent therein, compensation for which is included in the rate of transportation. If the shipper or consignee can

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release equipment within the first day of free time it is incumbent upon him to do so, and for doing that which he is obligated to do he should not expect compensation from the carriers. Again, under the provisions of the Public Utilities Act the Commission is required to make the charges for demurrage uniform and reciprocal, so that the same penalty shall be paid by both shipper or consignee and railroad corporation for an equal number of cars for each day for which demurrage is charged and thereunder such a rule as is here proposed would be impracticable. I am of the opinion that the proposed rule is unsound in theory and would prove impracticable in its operation and would serve but to add additional confusion and burden to an already involved matter. I therefore recommend that the proposed rule should not be adopted.

Free Time on Shipments Received or Delivered Ocean Carriers.

It was also proposed by the Cement, Tolenas and Tidewater Railway that a rule be incorporated in the order of the Commission to read as follows:

Five days' free time, computed from the first 7 a.m. after arrival at port of exit, will be allowed on cars containing freight for ocean movement when originating beyond the switching limits of the port of exit and destined to coastwise points in California. (See note.)

NOTE.—The term "destined" as herein used applies only to shipments covered by through bills of lading or when the final destination is shown on the way bill or bill of lading.

Five days' free time, computed from the first 7 a.m. after notification of arrival, will be allowed on cars containing freight for ocean movement and originating beyond the switching limits of the port of exit, when billed locally to such port of exit, provided written order to change the destination to coastwise points be received by holding agents within twenty-four hours, computed from the 7 a.m. of the day after notification of arrival.

If such written order be not received within such twenty-four hours the free time will be forty-eight hours, computed from the first 7 a.m. after notification of arrival.

NOTE.—The term "coastwise" as herein used, includes all points on the coast of California.

Cars containing freight for ocean movement loaded within the switching limits of the port of exit will be allowed forty-eight hours' free time to unload, computed from the first 7 a.m. after loading is completed and switching order is furnished by the shipper, and no notice to either the consignee or water carrier will be required.

If delivery to water carrier be made by a line other than that on which the car is loaded, the free time to unload will be forty-eight hours, computed from the first 7 a.m. after received by such delivering line, and no notice to either the consignee or water carrier will be required.

This rule is similar to that now carried in the demurrage tariff applying on interstate traffic, and although not carried in the demurrage tariff applying on California intrastate traffic it has been applied thereto, as the carriers, in so far as demurrage has been concerned, have treated all traffic moving to or from California ports by ocean carriers as interstate and therefore have applied the interstate demurrage rules. There was no objection to the incorporation of this rule in the demurrage code and I recommend that such a rule be incorporated in the Com-

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mission's order, as authority for the carriers' practice of allowing greater time for unloading cars containing freight for ocean transportation.

I recommend the following order:

ORDER.

Application having been filed by E. E. Mote, manager of the Pacific Car Demurrage Bureau, for authority to change certain rules for demurrage and reciprocal demurrage heretofore prescribed by this Commission and a proceeding having been instituted by the Commission in the matter of prescribing revised uniform rules for demurrage for standard gauge railroads subject to its jurisdiction, and a hearing having been held and a full investigation of the matters and things involved having been had and being fully advised in the premises,

It is hereby ordered that this Commission adopt the following general order, to be known as General Order No. 41, and to be effective on and after January 1, 1915.

GENERAL ORDER No. 41.

(Cancels General Order No. 2.)

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

IN THE MATTER OF UNIFORM RULES FOR DEMURRAGE FOR STANDARD GAUGE RAILROADS SUBJECT TO THE JURISDICTION OF THE RAILROAD COMMISSION OF CALIFORNIA.

Approved December 12, 1914. Effective January 1, 1915.

Rule 1. Days not counted in computing free time and demurrage.

In computing the time which is allowed carriers for furnishing cars and shippers for loading and unloading the same, no account will be taken of Sundays and the following holidays:

1. The first day of January.
2. The twelfth day of February.
3. The twenty-second day of February.
4. The thirtieth day of May.
5. The fourth day of July.
6. Labor Day.
7. The ninth day of September.
8. The twelfth day of October.
9. General election day.
10. General primary election day.
11. Thanksgiving Day.
12. The twenty-fifth day of December.

When a holiday falls upon a Sunday, the following Monday is a holiday.

Rule 2. Free time to load and furnish billing.

(*a*) Forty-eight hours' free time, computed from the first 7 a.m. after cars are placed or held upon the order of shippers, will be allowed to complete the proper loading of all commodities and to furnish forwarding directions, except that twenty-four hours will be allowed on oil tank cars.

(*b*) When empty cars placed or tendered for loading on orders are not used, the party ordering the same will be subject to demurrage charges, from the time of placement or tender until released, together with a charge for the empty haul of $5.00 per car when moved from another station, or of $2.50 per car when switched from a point within the yard limits.

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Rule 3. Free time to unload.

(*a*) Forty-eight hours' free time, computed from the first 7 a.m. after cars are placed and notification of arrival is given to consignee, will be allowed for unloading all commodities except oil from tank cars, for which twenty-four hours' free time will be allowed.

Five days' free time, computed from the first 7 a.m. after arrival at port of exit, will be allowed on cars containing freight for ocean movement when originating beyond the switching limits of the port of exit and destined to coastwise points in California. (See note.)

NOTE.—The term "destined" as herein used applies only to shipments covered by through bills of lading or when the final destination is shown on the waybill or bill of lading.

Five days' free time, computed from the first 7 a.m. after notification of arrival, will be allowed on cars containing freight for ocean movement and originating beyond the switching limits of the port of exit, when billed locally to such port of exit, provided written order to change the destination to coastwise points be received by holding agent within twenty-four hours, computed from the 7 a.m. of the day after notification of arrival.

If such written order be not received within such twenty-four hours the free time will be forty-eight hours, computed from the first 7 a.m. after notification of arrival.

NOTE.—The term "coastwise points," as herein used, includes all points on the coast of California.

Cars containing freight for ocean movement loaded within the switching limits of the port of exit will be allowed forty-eight hours' free time to unload, computed from the first 7 a.m. after loading is completed and switching order is furnished by the shipper, and no notice to either the consignee or water carrier will be required.

If delivery to water carrier be made by a line other than that on which the car is loaded, the free time to unload will be forty-eight hours, computed from the first 7 a.m. after received by such delivering line, and no notice to either the consignee or water carrier will be required.

(*b*) Whenever it shall appear to the satisfaction of the Commission that the failure of a railroad to furnish a car or cars for loading within the time fixed by these rules, or the failure of the shipper or consignee to load or unload the same was due to causes beyond the control of such carrier, shipper or consignee, no payment shall be required to be made on account of such delay.

Rule 4. Cars stopped in transit.

When cars are stopped in transit upon request of shippers or consignees for any purpose, twenty-four hours' free time, computed from arrival at point of stoppage, will be allowed.

Rule 5. Cars for loading or unloading on tracks of industrial plants.

When cars are placed on interchange tracks of industrial plants which perform their own switching service, the regular free time for loading or unloading will be allowed, computed from the first 7 a.m. after delivery upon such industrial interchange tracks.

Rule 6. Change in destination.

Twenty-four hours' free time computed from the first 7 a.m. after notice of arrival at the billed destination will be allowed when cars are diverted or reshipped to another destination.

Rule 7. Cars held for payment of freight or other charges.

Cars destined to the sidings of connections within the switching limits of the point of delivery held by the initial line for the payment of charges will be allowed twenty-four hours' free time, computed from the first 7 a.m. after notification of arrival.

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Rule 8. Notification.

(*a*) Consignee shall be notified by carrier's agent in writing or as otherwise agreed to by carrier and consignee, within twenty-four hours after arrival of cars and billing at destination, such notice to contain point of shipment, car initials and numbers and the contents, and if transferred in transit the initials and number of the original car. In case car is not placed on public delivery track within twenty-four hours after notice of arrival has been sent a notice of placement shall be given to consignee.

(*b*) Delivery of cars upon private or industrial interchange tracks, or written notice to consignee of readiness to so deliver, will constitute notification thereof to consignee.

Rule 9. Cars refused by connections.

When cars are refused by a connecting line because of the inability of consignee to receive and unload the same, the local agent of the carrier desiring to make delivery to connecting line will immediately notify the consignee of the cars so held, after which free time will begin to run the same as though such car or cars had been placed for unloading.

Rule 10. Weather.

Whenever the weather during the period of free time is so severe or inclement that it is impossible or impracticable to secure means of loading or unloading freight, or when from the nature of the goods to be loaded or unloaded such conditions of the weather would cause serious injury or damage, the time of the continuance of such weather shall be added to the free time allowed the shipper or consignee for loading or unloading; provided, that on the request of the carrier the Commission will determine whether or not, under all the conditions, such exception should be allowed.

Rule 11. Rate of demurrage.

Demurrage and reciprocal demurrage accruing under these rules will be charged at the rate of $3.00 per car per day or fraction of a day.

The payment by any railroad company of demurrage provided in these rules shall in no way invalidate or offset any claim any shipper or consignee may have for damages occasioned by delay or negligence on the part of such railroad company, nor shall anything herein contained be held to lessen the duties of any common carrier in the shipment of live stock or other perishable property.

Rule 12. Bunching.

(*a*) *Cars for loading.*—When, by reason of delay or irregularity of the carrier in filling orders, cars are bunched and placed for loading in accumulated numbers in excess of daily orders, the shipper shall be allowed such free time for loading as he would have been entitled to had the cars been placed for loading as ordered.

(*b*) *Cars for unloading.*—When as a direct result of the act or neglect of carrier, cars destined for one consignee at one point, and transported via the same route, are bunched in transit and delivered in accumulated numbers in excess of daily shipments, the consignee shall be allowed such free time as he would have been entitled to had the cars been delivered in accordance with the daily rate of shipment.

Rule 13. Reciprocal demurrage.

(*a*) *Notification.*—When a shipper desires cars he shall give written notice to the carrier on whose line his consignment originates, setting out the date on which he desires to have cars placed for loading, the number of cars, the character of freight, its destination and routing. To facilitate the making of such application, every railroad shall provide and keep at every agency station blanks for that purpose.

(*b*) *Time allowed to furnish cars.*—A shipper may order cars for placing at any time within fifteen (15) days from the time of the order, and the carrier shall be required to place the cars on the date required by the shipper, except that on orders of three cars or less the carrier shall be allowed forty-eight (48) hours to place such

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cars for loading after the first 7 a.m. following the receipt of the order; seventy-two (72) hours for any number of cars more than three and less than six; ninety-six (96) hours for any number of cars more than five and less than eight; one hundred and twenty (120) hours for any number of cars more than seven and less than eleven; and for each three additional cars in excess of ten, twenty-four (24) hours' additional time. Each of such periods of time shall begin to run at the first 7 a.m. following the receipt of the order.

(*c*) *Reciprocal demurrage bond.*—Any carrier that fails to place cars under the provisions of this rule shall pay to the shipper $3.00 per day for the number or cars in the shipper's order not so placed, until such time as such shipper's order shall be filled, unless released at the shipper's request; provided, however, that any shipper who desires to take advantage of this rule must file with the carrier from whom he desires to order cars a good and sufficient bond in the sum of twenty (20) dollars, if he desires to order but one car, and fifteen (15) dollars for each additional car. This bond shall be security for the payment on behalf of the shipper to the carrier for the use of any car or cars ordered by such shipper which shall be set out by the carrier and not used by the shipper, at the rate of $3.00 per day, computed from the time the car is set out. Each carrier shall furnish, on request of any shipper, and shall keep at all of its agency stations, blank forms of bonds, as prescribed in the appendix to this order, for the purposes herein set out.

(*d*) *Additional security.*—It is the intent of this rule that the carrier be protected against irresponsible shippers, and when a bond is once filed by a shipper under the provisions of this rule, such bond shall satisfy the requirements of this rule until the carrier shall have been forced to resort to it for payment for cars ordered and not used, in which event the shipper shall be required to furnish a new bond, as herein provided; except that if at any time the carrier questions the sufficiency of such bond, the Commission, after considering the facts, may require the furnishing of additional security on the part of the shipper.

Rule 14. Cars delayed by connection.

Any railroad which shall receive from a connecting railroad company one or more cars of freight consigned to any point on or beyond its line shall, within twenty-four hours after such cars are offered to it or are placed on its transfer or other tracks, forward said car or cars over its railroad toward destination, unless such delay is caused by circumstances over which such carrier has no control; and for every delay of twenty-four hours or fraction thereof, on the part of said railroad company in forwarding said car or cars, beyond said allowed period of twenty-four hours, said railroad company shall forfeit to the consignee of such car for such delay the sum of $3.00 per day for each and every car so received and not forwarded upon its line within the time above allowed.

Rule 15. Reports to commission by railroads.

(*a*) Each railroad subject to the jurisdiction of this Commission shall make a report monthly to the Commission of the payments made and received by such railroad company for demurrage and reciprocal demurrage paid and collected under these rules in the form prescribed in the appendix to this order. When payments are made by transportation companies under the reciprocal demurrage provisions of this order the report shall set forth in each instance the name and address of the shipper or shippers to whom payments are made, the circumstances giving rise to the liability, the reasons for the delay in furnishing the equipment ordered, the amount of the payment made and the date thereof.

(*b*) Each railroad agent shall keep and preserve a daily record of application for cars received at his station, both for loading at such station and at non-agency stations ordered from such station, showing such applications in consecutive order and the date on which received, which record shall always be open to the inspection of the Commission, its officers and employees, and to courts of competent jurisdiction during business hours.

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Rule 16. Disputes.

Whenever any disputes arise between shippers, consignees and carriers concerning the interpretation of these rules or concerning any claim arising hereunder, the same shall be submitted to the Commission for adjustment.

Rule 17. Publication.

These rules shall be immediately printed by the transportation companies, or their authorized agents, filed with the Commission and distributed to the agents of such transportation companies, and shall constitute their car demurrage tariff.

APPENDIX.

Form of Indemnity Bond.

(To be furnished by shippers under Uniform Rules for Demurrage and Reciprocal Demurrage prescribed by the Railroad Commission of the State of California.)

Know all men by these presents: That whereas_____

_____ of _____, county of _____, State of California, hereinafter designated as the "shipper," desires hereafter to

order from time to time from _____, a corporation, hereinafter designated as the "railway company," a car or cars for loading freight for transportation within the State of California under the Uniform Rules for Demurrage and Reciprocal Demurrage prescribed for standard gauge railroads by the Railroad Commission of the State of California;

(Insert name of railway company)

Now, therefore, said shipper, as principal, and _____ and

_____, as sureties, do hereby jointly and severally agree that in case, during the life of this bond, said shipper shall order from the railway company a car or cars for loading freight and shall not use the same, they will pay to the railway company, upon demand, the demurrage charges prescribed by said rules for failure to use the car or cars so ordered, at the rate of three (3) dollars per car for each day or fraction of a day of detention, not exceeding, in case of an order for a single car, the sum of twenty (20) dollars, and, in case of an order for more than one car, the sum of twenty (20) dollars plus fifteen (15) dollars for each car ordered in excess of one, together with charges for necessary empty-car haul and all damages, expenses and costs which the railway company may incur or in anywise be put to in the premises.

The term of this bond shall be _____ from date hereof. It is mutually understood and agreed and made a condition hereof that the respective rights and obligations of the said principal and sureties herein and the said railway company, with respect to the matters herein contained shall be governed by the provisions of the Uniform Rules for Demurrage and Reciprocal Demurrage prescribed for standard gauge railroads by the Railroad Commission of the State of California, and it is further understood and agreed that any and all such amendments, alterations and additions shall not operate to discharge or diminish the obligation of the sureties of this bond.

This obligation shall inure to the benefit of the railway company, its successors and assigns, and shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

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In witness whereof, said principal and sureties have caused these presents to be duly executed this _____ day of _____, 19____.

_____
(Principal)

_____

_____
(Sureties)

_____

Form of Report for Demurrage and Reciprocal Demurrage Paid and Collected.

(*a*) Report of demurrage collected for month of _____, 191____.

_____
(Name of carrier)

Cars reported, total	Cars held, number	Overtime, per cent	Demurrage			
			Amount charged	Amount collected	Relief	Uncollected

(*b*) Report of demurrage paid for month of _____, 191____.

_____
(Name of carrier)

To whom paid (give address)	Date	Amount	Car ordered	Car placed	Reason for delay in furnishing cars

It is further ordered that carriers shall publish and furnish a copy of these rules to all regular shippers of freight over their respective lines and to other shippers upon request, and shall post in two conspicuous places in each freight depot a notice informing shippers of the provisions of the reciprocal demurrage rules.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of December, 1914.

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DECISION No. 1995.

IN THE MATTER OF THE APPLICATION OF GRANGERS' BUSINESS ASSOCIATION FOR APPROVAL OF A RENEWAL OF A WHARF FRANCHISE.

Application No. 1383.

Decided December 12, 1914.

REPORT OF THE COMMISSION.

Grangers' Business Association having applied to this Commission for approval of a resolution of the board of supervisors of the county of Contra Costa, State of California, made on September 2, 1913, renewing a right theretofore granted applicant to construct and maintain a wharf on the southerly shore of the Straits of Carquinez, and a hearing having been had in this matter and the Commission being of the opinion that the application should be granted,

It is hereby ordered that said application be and the same is hereby granted.

Dated at San Francisco, California, this 12th day of December, 1914.

Decision No. 1996, grade crossing; not printed. See end of volume.

DECISION No. 1997.

IN THE MATTER OF THE APPLICATION OF MRS. W. F. MORRIS FOR AN ORDER FIXING CONSUMER'S RATE.

Application No. 1289.

Decided December 14, 1914.

Applicant, when in possession as lessee of certain property at Witter Springs, California, entered into a contract with Mt. Konocti Light and Power Company to receive electric energy from that company, agreeing to pay a monthly minimum charge of $50.00, and at present being no longer in possession of such property is, nevertheless, held responsible by the power company for such minimum monthly payment, and accordingly petitions the Commission to fix a like minimum rate for the present lessee of the property formerly in her possession.

Held, That a rate legally established for a specific service is applicable merely to such service and not to specific individuals or persons and can not be modified or changed simply because of change of ownership or possession of the property receiving such service. Application dismissed.

George J. Presley, for Applicant.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application of Mrs. W. F. Morris requesting that the Commission fix a minimum rate of $50.00 per month for electric service furnished Thomas Chatfield at Witter Springs, Lake County.

The application alleges in part that petitioner entered into a contract on the 23d day of June, 1913, with the Mt. Konocti Light and Power Company, whereby the power company was to furnish all electric energy required by petitioner at Witter Springs, Lake County, for the period of two years subsequent to June 23, 1913, at the established rates for such service, but providing for a minimum charge of $600.00 per annum, or $50.00 per month; that a copy of said contract was duly filed with the Railroad Commission of the State of California. At the time of entering into the contract, petitioner was lessee under a year's lease of the buildings and premises at Witter Springs; that at the expiration of said year petitioner did not exercise her option of renewal, but gave up the premises, which were thereupon leased by Thomas F. Chatfield, who is at the present time the lessee of the said buildings and premises; that petitioner at the date of filing the application and for a period of three months previous thereto, had no interest whatever in said buildings or premises; that the Mt. Konocti Light and Power Company had been furnishing service to said Thomas F. Chatfield ever since the date when petitioner gave up the possession of said premises; and that the power company has held petitioner responsible for the payment for said service under the terms of her contract, and has demanded that she continue to pay the minimum charge of $50.00 per month for electric service so furnished at Witter Springs.

Petitioner therefore requests that, in view of the fact that she is not receiving any benefit from the service so supplied or using any of the electric energy furnished at Witter Springs, this Commission fix a minimum rate of $50.00 per month, corresponding with the monthly minimum charge set forth in said contract, for electric service furnished by the power company to said Thomas F. Chatfield.

From the evidence introduced at the hearing, it appears that in order to serve petitioner it was necessary for the power company to construct a line from its nearest service point to Witter Springs, a distance of about five and one half miles. This long extension, considered by itself, apparently could not, under any circumstances, be made profitable at the established rates for electric energy effective over the balance of the territory served by the power company, and it was for this reason that the relatively high minimum charge was demanded by the power company at the time petitioner applied for service and entered into the contract hereinbefore mentioned. It is not claimed either that

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the rate or minimum charge set forth in the contract are unjust or excessive, nor does petitioner maintain that the contract was not entered into in good faith by the parties hereto.

In view of these facts, it is perfectly obvious that petitioner wishes to be relieved from further payments to the power company for the service from which she is apparently receiving no present benefits. On the other hand, the power company, in accordance with the terms of the contract, proceeded to do two things: first, to construct a line to Witter Springs, then under lease by petitioner; and second, to furnish electric energy to petitioner at the rates then in effect and on file with this Commission. Subsequently, about May, 1914, and about one year prior to the expiration of said contract, petitioner, as hereinbefore stated, voluntarily gave up the premises which were then being supplied with electric energy by the power company, and one Thomas F. Chatfield took possession under a new lease from the owners. Since about May, 1914, it appears that the present lessee of the premises referred to has not paid the power company for the service he has been receiving, notwithstanding the fact that the premises and the use of the said service have been under his control, but that the power company has been looking to petitioner for payment under the terms of her contract, which has been interpreted as requiring petitioner, in addition to guaranteeing a minimum monthly revenue of $50.00 for two years from June 23, 1913, to actually pay for the energy supplied by the power company to the present lessee.

The rate as set forth in the contract under discussion automatically became the legal rate for the service mentioned thirty days after the date of filing by the power company of a copy of said contract with this Commission, and it still remains the legal rate for that service, entirely independent of who the recipient of the service may be or who may legally be responsible for the payment of bills accruing thereunder. In this connection, I wish to state that a rate legally established remains the rate for the specific service to which it has been made applicable, and may not be changed or modified simply because the ownership or possession of the premises to which the service is supplied may have changed. In other words, a rate is established for a specific service and not for a specific person, excepting possibly the free service or reduced rates granted to those consumers or classes of consumers who are privileged to receive such concessions.

As has been already stated, petitioner does not question the reasonableness of the rate or the justice of the minimum charge as set forth in the contract, nor does petitioner maintain that the contract was not entered into in good faith by both parties. The only action which this Commission is asked to take is to fix the minimum charge to be paid by the present lessee of the premises. Inasmuch as there is in

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effect at this time a rate for said service, there is no occasion for any action being taken by the Commission and I therefore recommend that the application be denied.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the matter having been submitted, and being now ready for decision,

It is hereby ordered that application be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of December, 1914.

DECISION No. 1998.

VISALIA BOARD OF TRADE

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 681.

Decided December 14, 1914.

Complaint of the board of trade of Visalia alleges that the present depot of defendant company at Visalia is entirely inadequate to properly handle the traffic moving through that station and accordingly petitions the Commission to direct that a new and adequate depot be constructed and maintained.

Held, Defendant directed to submit for the approval of the Commission plans for a new depot to be constructed on the present site in the city of Visalia, to cost not less than $15,000.00, also plans for a separate freight depot, such buildings to be constructed ten months after the approval of such plans.

James M. Burke, for Complainant.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

On September 18, 1914, the Visalia Board of Trade, a California corporation, filed its complaint against the Southern Pacific Company, alleging that the defendant's passenger and freight depot in the city of Visalia, located at the corner of North Church street and East Oak street in said city, is grossly inadequate to serve the public of the city of Visalia and the surrounding territory; and that the facilities available are insufficient for the transaction of the business of the

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Southern Pacific Company. The complainant prays that the defendant be required to satisfy and answer its complaint, and that the Commission make its order directing the defendant to erect a new and adequate passenger depot and a new and adequate freight depot in the city of Visalia, and to make such other changes, additions and improvements as may be deemed necessary for the convenience and security of the public and the employees of the defendant; and that said order fix the time within which these new structures shall be erected and the other changes and improvements shall be made.

In support of its contentions the complainant states that the defendant's present combination freight and passenger depot has been maintained for more than eighteen (18) years, without any material changes or improvements. The freight shed is said to be too small to accommodate and safely or expeditiously handle and store the amount of freight which is regularly required to be handled and stored, and that there is frequent congestion of freight, with attendant loss to shippers, and that freight is frequently left, because of lack of room in the shed, on the platform outside, where it is subject to injury from the elements and to damage and theft. The platform and sidewalk surrounding the waiting room of the depot, which must be used by passengers, is said to be, in many points, below the level of the adjacent street and tracks, so that water regularly accumulates and remains thereon during the rainy season, to the inconvenience and discomfort of persons using the platform. The waiting room of the depot is claimed to be too small and entirely inadequate to accommodate the people who are required to use it; it is also contended that the baggage room is too small and entirely inadequate for the handling of baggage. The sanitary conveniences at the depot, it is said, are wholly insufficient, and so placed as to be almost inaccessible to passengers.

It is further stated by the complainant that the city of Visalia, when this depot was first erected, did not contain more than one half ($\frac{1}{2}$) of the population which it now contains, and that the territory surrounding the city was not developed to any extent comparable with its present development, and was not inhabited by over one half ($\frac{1}{2}$) of the people who now inhabit it. The complainant also alleges that the business transacted at this station during the past year has been more than three (3) times as large as the business transacted during the first year of its erection.

The complainant further recites that the defendant, in addition to its steam railroad, controls and operates the Visalia Electric Railroad, a common carrier, which is an electric railroad extending from Visalia to and through the towns of Exeter, Lemon Cove and Woodlake, in Tulare County, with the city of Visalia as the western terminus; and

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that the defendant's depot is also used for the transaction of all the freight and passenger business of said Visalia Electric Railroad in the city of Visalia.

The complainant avers that the Southern Pacific Company has frequently been requested and urged by it and by numerous residents of the city of Visalia and vicinity to erect a new depot and to furnish better facilities for passenger and freight service; and that the defendant, within the past two years, has admitted that the facilities at Visalia are wholly inadequate, and has stated and promised that it would, during the fiscal year ending June 30, 1914, expend the sum of at least twenty-five thousand ($25,000.00) dollars in building a new depot at Visalia, and in improving and enlarging its freight yards at that point; but that the defendant has not expended any such sum or any other sum except what was actually necessary to keep the depot in repair.

It is also stated in the complaint that the Southern Pacific Company has, within the past two months, declared to the complainant that it does not intend to build a new depot or improve or enlarge its facilities at any time in the reasonably immediate future; and the complainant states that unless it is compelled to do so defendant will not build any new depot and will not improve or enlarge its facilities in any way.

In view of the very large increase in defendant's business originating in Visalia and surrounding territory, and also in view of the fact that the defendant has within recent years built new depots at several other points in said county, where the need for better facilities was no greater than it is at Visalia, the complainant prays for relief as stated heretofore.

A copy of this complaint, with directions to make its answer to the Commission, was furnished to the defendant, and this answer was filed on October 24, 1914. The answer is a denial of most of the allegations made by the complainant, and specifically denies that the freight and passenger facilities, as they now exist at Visalia, are inadequate and inconvenient. The defendant further denies that the depot has not been enlarged or improved since its original construction, but on the contrary avers that upon several occasions the depot has been enlarged and extended, that electric lights and other improvements have been installed therein, and that the platform of said station has been extended. It is also denied that there is congestion of baggage or freight, or inconvenience to the traveling public making use of the waiting room. The sanitary conveniences are said to be amply sufficient, conveniently located and readily accessible. Defendant admits that it has been requested to construct a new depot and to increase its facilities at Visalia, but denies that within the past two years or ever at all it has acknowledged that the said depot is in any way inadequate for the reasonable service of the public; and denies that within the past two

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years, or at any other time, it promised to expend the sum of at least twenty-five thousand ($25,000.00) dollars in improving its facilities. Defendant further denies that it ever declared that it would not build a new depot or improve or enlarge its facilities at Visalia at any time in the reasonably immediate future; and avers that it has been and is now its intention to construct a new depot and improve its facilities at Visalia as soon as financial considerations will permit; and that the delay in carrying out these plans is due solely to the present stringent financial conditions which have been augmented by the European war, and which necessarily require that the defendant, in common with all other business enterprises, shall, for the time being, adopt a policy of retrenchment in its expenditures and make no outlays other than such as may be reasonably required for the accommodation of the shipping and traveling public. The defendant avers that the present facilities in Visalia are all that can be reasonably required for the comfort and accommodation of the public and its patrons at this point, and prays that the complaint be dismissed.

The hearing in this case was held in Visalia on December 1, 1914, and the case is now ready for decision. I find that the complainant's allegations are generally and substantially based on facts. Visalia is the county seat of Tulare County, and has a population of approximately five thousand (5,000) people. It is the market and shipping center of a well developed and fertile agricultural, fruit growing and dairying region, which furnishes a large and increasing amount of freight and passenger business to the defendant. The testimony introduced at the hearing substantiated the allegations that the Visalia depot is approximately twenty (20) years old, and that few if any enlargements have been made during that period. I am convinced that both the passenger and freight facilities are inadequate and inconvenient. A number of exhibits were filed at the hearing which show that the complainant, in a meeting with the general manager of the Southern Pacific Company on May 12, 1913, was informed that defendant had been contemplating the erection of a new passenger station in Visalia for some time, and that an appropriation for it had been requested in its annual budget. The general manager also stated at that time that defendant realized that the existing facilities are inadequate. It appears from the testimony that the appropriation for better facilities at Visalia was included in three (3) successive budgets, but that this particular item in each instance was eliminated by the company's higher officials in the East.

It does not appear necessary to me to go further into the necessity for better facilities at this point, for the reason that the company's representative at the hearing agreed to stipulate that this need should

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be admitted by the defendant. Aside from this stipulation the defendant's business statistics for Visalia will further bear me out in this respect. The defendant had been requested to furnish the principal figures, and they are here given:

TABLE I.

Southern Pacific Company.
(Pacific System.)
Passenger Business at Visalia by Years.

	1910	1911	1912	1913	Last 12 months[1]
Number local passengers	54,529	57,459	61,985	60,191	48,532
Number interline passengers	501	477	571	447	391
Total steam lines	55,030	57,936	62,556	60,638	[2]48,923
Passenger revenue:					
Local tickets	$76,575	$78,359	$79,238	$81,296	$64,415
Interline tickets	15,538	13,594	15,843	15,232	14,893
Total steam lines	$92,113	$91,953	$95,081	$96,528	$79,308
Electric railroad:					
Number tickets	----------	----------	24,195	26,175	24,000
Revenue	----------	----------	$12,520	$12,285	$11,836

[1]November, 1913, to October, 1914, inclusive.
[2]Average number of passengers per train stopping, 9. (Excludes trains terminating at Visalia.)

TABLE II.

Southern Pacific Company.
(Pacific System.)
Baggage and Freight Business at Visalia by Years.

	1910	1911	1912	1913	Last 12 months[1]
Number of pieces baggage received and forwarded	35,793	30,852	31,925	38,049	36,265
Ditto, per day	98	84	84	104	99
Ton less-carload received and forwarded	14,906	11,020	10,407	12,712	12,758
Ditto, per day	41	30	29	35	35
Carloads forwarded and received	3,193	2,578	2,770	3,334	3,252

[1]November, 1913, to October, 1914, inclusive.

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TABLE III.

Southern Pacific Company.
(Pacific System.)
Business at Visalia, Last Available Twelve Months.
(November, 1913, to October, 1914, inclusive.)

	Local	Interline	Total
Passenger:			
Passengers outbound—November-October	48,532	391	48,923
Revenue from same	$64,415	$14,893	$79,308
Freight:	Forwarded	Received	
Less-carload—tons	5,993	6,765	12,758
Number of carloads	1,498	1,754	3,252
Revenue—less-carload	$15,402	$41,520	$56,922
Revenue—carload	115,330	105,456	220,786
Number passengers, electric railroad[1]			24,000 (over)
Revenue from same			$11,836

[1]Twelve months, October, 1913, to September, 1914, inclusive.

These tables show that the total freight receipts at this station for the twelve (12) months ending October 31, 1913, amounted to $277,708.00, and the total passenger receipts for the same period, from steam line service, amounted to $79,308.00, and from electric railroad service, to $11,836.00, making a total for freight and passenger business, including electric service, of $368,852.00.

The present structure is a combination freight and passenger depot and is located in the north half of the block bounded by Oak street, Center street, North Church street and North Garden street. A separation of the passenger depot from the freight depot should be effected, and the defendant is evidently willing that such a separation be made. The defendant owns the north half of the three blocks Nos. 22, 23 and 24, between Oak street, Center street, North Church street and North East street; and I understood that this piece of property was purchased in order to have room for future passenger and freight facilities. It is my opinion that the passenger depot should be rebuilt in the block where it is at present located and that the most desirable location for the freight depot is midway between North Garden and North East streets. The location of the freight depot at that point would necessitate the closing of North Bridge street between Oak street and the alley running east and west between Oak and Center streets, a distance of one hundred and twenty-four (124) feet. It was agreed at the hearing between the parties involved that the Commission's order should be made contingent on the closing of this portion of North Bridge street and also on the closing of the south half of Oak street between North Church and North Garden streets, the latter closure being necessary for the development of desirable passenger

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facilities in front of the proposed new passenger depot. The chairman of the city council of Visalia and several councilmen who were present stated their opinion that the city would be willing to have these portions of streets closed provided the depots are built as outlined. The Commission is not committed to one particular type of building in favor of another, but it appears to me that a passenger depot of lath and plaster, or of concrete, or of concrete hollow tile, or of other suitable material, will best serve the needs of and be appropriate for the city of Visalia. It is my opinion that it is reasonable and just for the defendant to expend for such a structure, this being the passenger depot proper, a sum of not less than fifteen thousand ($15,000.00) dollars. Such a passenger depot, I believe, will be adequate not only for the present but make provision for the reasonable future needs of the city of Visalia. The freight depot should be one of the company's standard structures, and it appears to me unnecessary to prescribe a particular type of structure.

The construction of separate passenger and freight depots will make necessary a rearrangement of the track layout. The complainant protested against certain particulars of the present track arrangement, but since this arrangement will be changed in any event, it is not necessary to go into this matter at this time. The defendant should be required to submit to the Commission, for its approval, plans of both depots and of the proposed track layout, and these plans will be forwarded to the complainant and to the city of Visalia for suggestions, so that any desired changes can be considered when these plans are ready.

Immediately south of the passenger depot site, and facing on the alley between North Church and North Garden streets, there are located at the present time a livery stable and a number of temporary and unsightly shacks, which should be removed. One of the owners of these properties was present at the hearing and agreed to remove his structures whenever the defendant actually commenced construction.

If the portion of North Bridge street, as described heretofore, is closed it will be necessary at all times to have the alley through Blocks 22, 23 and 24, between North Church street and North East street, unobstructed for public travel; and the defendant has agreed to keep the space between its facilities and this alley open for public travel. The defendant has also agreed to remove the warehouse in the southwest corner of its property in Block 23, and facing this alley and North Garden street.

I find, therefore, as a fact that the present station facilities of the defendant in the city of Visalia are inconvenient and inadequate for the traffic handled at that point, and that the defendant should erect a passenger depot on its property on the location outlined heretofore,

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at a cost to it of not less than fifteen thousand ($15,000.00) dollars, said depot to be either of lath and plaster, or of concrete, or of concrete hollow tile, or of other suitable material, and of a type satisfactory to this Commission.

I find further that a freight depot, separate from the passenger depot, should be erected on the site outlined heretofore; said freight depot to be of a design satisfactory to this Commission. I recommend that the construction of the passenger and freight depots should be made contingent upon the closing of North Bridge street, from the north line of the alley running east and west through Blocks 23 and 24, on the south, to the south line of Oak street on the north; and also the closing of the southerly half of Oak street between North Garden street and North Bridge street; and I recommend to the city of Visalia that the necessary ordinance be adopted.

I find that three (3) months will be a reasonable time from the date of this order in which the defendant should submit plans for these depots and for the new track layout and secure the approval of the Commission; and that one (1) month will be ample time for the discussion and approval of these plans by the Commission and the city of Visalia. I find further that after the final approval of the plans by the Commission the construction of both the passenger and freight depots should be completed within ten (10) months. I find that the total cost of the proposed improvements will amount to not less than twenty-five thousand ($25,000.00) dollars.

ORDER.

Visalia Board of Trade, a corporation, having filed with this Commission its complaint against the Southern Pacific Company, a corporation, in the proceeding entitled as above; and the Southern Pacific Company having filed with this Commission its answer; and a public hearing having been held, and evidence having been presented by the interested parties, and the case having been submitted; and the Commission finding as a fact that the present passenger and freight facilities in the city of Visalia are inconvenient and inadequate for the traffic at that point; and that the Southern Pacific Company should erect on its property in the block bounded by Oak street and an alley on the north and south, and by North Church and North Garden streets on the west and east, in the city of Visalia, a passenger depot of the cost and type as hereinbefore specified; and should also erect on the site hereinbefore specified a freight depot of such design and construction as shall be approved by the Commission; the construction of these depots to be made contingent upon the closing of a portion of North Bridge street and a portion of Oak street, and upon certain other conditions as here-

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inbefore specified; and basing its order on the findings contained herein and upon the opinion preceding this order,

It is hereby ordered that the defendant shall within three (3) months from the date of this order present to the Railroad Commission, for its approval, complete plans of passenger and freight depots and of a new track layout on the location hereinbefore described, and shall complete both depots and the necessary track arrangement within ten (10) months after the final approval of the plans by the Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of December, 1914.

DECISION No. 1999.

WALTER W. PATTERSON

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 625.

Decided December 14, 1914.

Complainant petitions the Commission to compel defendant company to stop its cars at more frequent intervals in the city of South Pasadena, alleging that at present cars do not stop as provided for in defendant's franchise, and it appearing that such franchise has been subsequently amended by the city authorities as regards the stoppage provision and that the present schedule is more convenient to the greater number of people, complaint accordingly dismissed.

Wm. H. Jennings, for Complainant.

Frank Karr, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is a complaint by Walter W. Patterson against Pacific Electric Railway Company, the principal ground of which is that defendant is violating a provision of a franchise granted by the city of South Pasadena whereby the number of stops to be made by the cars of defendant in said city were specified.

Plaintiff alleges that in June, 1914, defendant adopted a schedule which provides for fewer stops than are specified in said franchise provision.

There is a very brief allegation in the complaint to the effect that the failure of defendant to stop cars as specified in its franchise endangers life and renders property in said city less valuable.

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Defendant introduced in evidence an ordinance adopted by the board of trustees of South Pasadena subsequent to the granting of the franchise hereinbefore mentioned, in which subsequent ordinance the provision as to the number of stops to be made in the city is modified so that defendant is required to stop only at two points in said city. The schedule now in effect, and against which plaintiff complains, does not conflict with this modification.

I do not propose to consider at length the prayer of complainant that we compel defendant to comply with the terms of this franchise, because the real question presented is whether proper service is now being rendered by defendant. But it may be said in passing that it appears from the face of the record made in this case that the city of South Pasadena has officially modified the franchise previously granted, so that the allegation of complainant that the original franchise is being violated is without merit.

Considering the matter of stops in South Pasadena from the standpoint of service alone, the evidence in this case shows that the city officials of South Pasadena and Pasadena went into conference with the officials of defendant and after mature consideration agreed upon the schedule which is now in effect.

The difficulty in providing stops which will be satisfactory to all sides arises from the fact that South Pasadena is on the line of defendant intermediate between the city of Pasadena and the city of Los Angeles. A large amount of the passenger traffic passes through South Pasadena to and from the larger cities. To compel all cars to stop at every street in South Pasadena would result in inconveniencing more people who are making the through trip than would be accommodated by the frequent stoppage.

However, the schedule which is now in effect should be given a reasonable trial and I do not believe this Commission should take action at this time to change or disturb this schedule.

If, after a reasonable trial, experience shows that this schedule is not equitable the matter can be again taken up with the Commission, either by formal or informal complaint.

I recommend that this complaint be dismissed. Herewith a form of order:

ORDER.

Complaint having been made by Walter W. Patterson against Pacific Electric Railway Company, and a public hearing having been had, and it appearing to the Commission that for the reasons set out in the foregoing opinion said complaint should be dismissed,

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It is hereby ordered, by the Railroad Commission of the State of California, that the complaint herein be and the same hereby is dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of December, 1914.

DECISION No. 2000.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION TO PRESENT EVIDENCE WITH A VIEW TO JUSTIFYING SOME HIGHER RATE THAN THE LOWEST RATE EXISTENT IN MODESTO EXCHANGE, STATE OF CALIFORNIA, FOR ITS FARMER LINE SUBSCRIBERS IN SAID EXCHANGE, WHICH RATE SHALL BE SUBSTITUTED UNIFORMLY FOR THE EXISTING RATES FOR THIS CLASS OF TELEPHONE SERVICE IN THE MODESTO EXCHANGE.

Application No. 1108.

Decided December 15, 1914.

In connection with a former complaint in which defendant telephone company admitted the existence of discrimination in farmer line rates at its Modesto exchange, the Commission held that where discrimination was proven to exist the burden of proof that the then lowest rate then in effect should not be held as reasonably and justly compensatory should rest with the utility. Accordingly applicant herein applies for authority to establish a higher rate for farmer line service at Modesto than the lowest rate of three dollars per year in effect at such exchange when discrimination was proven to exist.

Held, Pending further investigations, applicant's regular schedule of farmer line rates approved and established as effective at its Modesto exchange provided that such rates shall not be conclusive until their ultimate reasonableness shall have been passed upon.

James T. Shaw, for Applicant.

Joseph M. Cross, for Protestants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by The Pacific Telephone and Telegraph Company following an order of this Commission, rendered on April 10, 1914, in Case No. 515, being a complaint by *S. O. Fesler et al.* vs. *The Pacific Telephone and Telegraph Company.* The complaint in that case charged discrimination in the rates charged its patrons by this telephone company for so-called farmer line service at its Modesto exchange. The evidence which was submitted in that case by the complainants was chiefly to the effect that the company was charging some

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of its farmer line patrons $3.00 per year, while for similar service others were charged $7.20 per year. The company admitted this to be true, but took the position that this condition existed when the Public Utilities Act became effective as a condition which was largely beyond its control, and that since the act became effective it has not been permitted, without the further order of the Commission, to remove the discrimination except by lowering the higher rate.

The company was directed by the Commission's order to remove the discriminations, within thirty days, by placing in effect a uniform rate of $3.00 per year, or within such time to make application to the Commission for permission to present evidence with a view to justifying some higher rate.

In the application herein the company, as petitioner, asks the Commission for permission to present evidence justifying some higher rate for this service than the lower present rate, and that the Commission approve the standard rate for farmer line subscribers in its Modesto exchange, together with the rules, regulations and discount provisions attached thereto, as filed with the Commission, and that the Commission make an order permitting petitioner to charge and collect that rate generally and universally for this class of service in its Modesto exchange.

The standard rate referred to in this petition is $7.20 per year, which is the higher rate referred to in the Fesler complaint. It is the rate which was adopted by this company as standard for exchanges of this class on July 1, 1909. Prior to July 1, 1909, rates were in effect in Modesto and at other of the applicant's exchanges which were generally lower than those adopted as standard on that date and which, for one reason or another, were in certain cases allowed to continue after July 1st and were still in effect on October 10, 1911. The Fesler complaint and the present application have arisen by reason of the fact that this company is unwilling to remove this discrimination except by increasing the lower rates.

In each of these proceedings, the only issue involved is the rate charged for farmer line service. At the hearing in the *Fesler* case, the telephone company maintained that farmer line service is but one of several classes of service for which the exchange is responsible, and that the consideration of one rate in a general schedule for a general and comprehensive telephone service is an impracticable, unjust and inequitable procedure. However, to satisfy certain inquiries of the Commission, it submitted evidence with reference to such items of investment, earnings, and operating expenses as could be directly allocated to this particular class of its exchange service. Without reviewing this evidence in detail, which does not seem essential at this time since the

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evidence is all of record in the *Fesler* case, it may be stated here that that evidence indicates that under present rates farmer line service is now being conducted, and even if all of the present farmer line subscribers were paying the so-called standard rate, it would still be conducted at a loss to the company.

Although it will be noted that the present application and the Commission's order previously referred to involve the presentation of evidence, with a view to justifying some higher rate, etc., no evidence further than that presented in the *Fesler* case was submitted at the hearing in this application. In reference to this matter, counsel for the applicant declared his willingness to rest the case on the basis of the evidence presented in the former proceedings, to all of which reference was specifically made.

In due time all of this company's rates for exchange service in all of its exchanges in California will probably be before the Commission for determination as to their reasonableness, and the situation with reference to all of the exchange rates now in effect at Modesto should, in view of that possibility, be postponed until that time. I believe it will be sufficient for the present, and for the purposes of this and the former proceedings in the *Fesler* case, to determine how the existing discrimination should be removed or whether it should be permitted to continue.

The telephone company has submitted statements of its investment and of its earnings and expenses for the entire exchange at Modesto from which it, as well as the Commission, has made various calculations to determine the result of its present operations, and the possible effect upon the return on its investment of applying different rates than those at present in effect for farmer line service.

The company claims an investment in Modesto amounting to $79,664.49 as of date June 30, 1914. For the year 1913, according to the company's statements, the gross earnings were $33,493.40, expenses of operation $26,877.68, and balance net income $6,615.72. This net income would represent a net return of 8.3 per cent on the investment claimed. This figure of gross earnings includes earnings for the year from toll service revenues amounting to $7,093.58, based on toll rates which were in effect during that year. The Commission has since reduced this company's toll rates, hence the future toll earnings under the reduced rates will not be what they would have been under former rates for the same amount of traffic. This reduction amounts to approximately 21.9 per cent, as shown by the Commission's findings in connection with the toll rate investigation.

Figuring a possible reduction in toll revenues of 21.9 per cent on the basis of toll earnings for 1913, which, however, does not allow for any possible change in the amount of toll traffic which may hereafter be

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handled, toll earnings for the year 1914 would be reduced by $1,553.49. According to the company's records, as shown by statements filed during September, 1914, there were as of date June 30, 1914, 117 farmer line subscribers at Modesto paying $3.00 per year and 518 paying $7.20 per year. On this basis, if the uniform rate for farmer line service at Modesto were made $3.00 per year, a reduction of $2,175.60 per year in exchange service revenues would follow, which, added to the reduction in toll service revenues referred to above, would represent a total annual reduction in gross income of $3,729.09, leaving a net earning for 1914, figured on the basis of the statements submitted for the year 1913, of $2,886.63. This amount would represent a net return of approximately 3.75 per cent on an investment of $79,664.49.

Were the Commission to grant this application to allow a uniform application in this exchange of the so-called standard rate of $7.20 for farmer line service, an increase of $491.40 in annual exchange service revenues would follow. Allowing for the reduction in toll service revenues referred to above, the net earnings would become $5,539.02. On the investment claimed, this amount would represent a net return of 6.95 per cent.

Except as to the estimated reduction in toll service revenues here referred to, and to the possible effect on exchange service revenues of the application of one or the other of the rates at present in effect for farmer line service, it is to be noted that no alteration of the company's statements of investment, earnings and expenses has been attempted. It does not follow, however, that in passing their statements without criticism the Commission is either affirming or denying their correctness. To do so at this time would involve consideration of the operations of the entire exchange, since these statements include the entire business of the exchange, and the Commission is not at this time passing upon any of the rates at present in effect at Modesto exchange other than those involved in this application and in the Fesler complaint.

It is apparent, however, that net earnings which represent a net return of but 3.75 per cent on the investment are unreasonably low. It is likewise apparent that rates which will allow a net return of only 6.95 per cent on the investment are not unreasonably high. As previously pointed out, the existence of discrimination in the rates charged for farmer line service at Modesto is admitted by the telephone company. The removal of this discrimination by any revision of the present rates for this class of service other than by granting some higher rate than the lowest existing rate without a revision of the existing rates for the other classes of service (upon which the Commission is not now passing) will not, according to these statements, provide a reasonable return. Until such time as the Commission may pass upon all of the exchange rates in effect at this exchange, and without passing upon the

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ultimate reasonableness of farmer line rates at any of the exchanges operated by this or other telephone companies in California, it is my opinion that, subject to such further alteration as may later appear to be proper or necessary, this application should be granted, and I shall so recommend.

ORDER.

Application having been made in compliance with an order of this Commission approved April 10, 1914, by The Pacific Telephone and Telegraph Company, a public utility corporation, for permission to present evidence with a view to justifying some higher rate than the lowest rate existent in its Modesto exchange for its farmer line subscribers, which rate shall be substituted uniformly for the existing rates; and a hearing having been held and it appearing to the Commission that the so-called standard rate of $7.20 per year in effect at Modesto for farmer line subscribers, as referred to in the foregoing opinion, is not unreasonably high,

It is hereby ordered that, pending such further alteration as to the Commission may subsequently appear to be proper or necessary in determining just and reasonable rates for exchange service at the Modesto exchange or at other of this applicant's exchanges in California, the applicant, The Pacific Telephone and Telegraph Company, be and it hereby is permitted from and after the first day of May, 1914, to place in effect and to charge and collect generally and universally for its farmer line service at its Modesto exchange its standard rate for this class of service in accordance with its schedule dated July 1, 1909, together with the rules, regulations and discount provisions attached thereto as filed with this Commission, as follows:

Rates for Farmer Line Service.
Effective July 1, 1909.

Connecting with exchange—	Switching rate per year	Company furnishes—	Subscriber furnishes—
300 stations or less	$3 00	Switchboard and circuit to town limits for not less than 5 subscribers per circuit.	Circuit to town limits.
300 to 500 stations	3 60		Complete telephone and battery.
500 to 750 stations	4 20		Substation protection.
750 to 1,000 stations	5 40		Maintenance of above.
1,000 to 2,000 stations	7 20		
2,000 to 4,000 stations	8 40		
4,000 to 6,000 stations	9 60	Central office service.	
6,000 to 8,000 stations	10 80		
8,000 to 12,000 stations	12 00	Listing in directory.	
12,000 and over	15 00	Code ring card.	

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Payable annually in advance to January 1st.

Requests to place farmer circuits on company's poles must be submitted to the exchange manager with full information as to the location and number of poles. If the request is granted, there will be a rental charge of 5 cents per annum per contact for a metallic circuit or 10 cents per contact for a grounded circuit, and a pole license (form K-963) should be signed by the applicant.

Requests to place several circuits on the same poles will, if granted, be provided for by placing a 10-pin cross-arm filled with pins, especially for the farmers' use, on which the rental charge will be 50 cents per annum per cross-arm. These cross-arms will require "pony insulators," to be furnished by the farmers.

The subscriber will be allowed a discount of ten per cent (10%) if the bill is paid at the Pacific Company's office during the first month of the year. New subscribers connected will be billed from date of connection to the end of the year, and annually in advance thereafter. Initial bills rendered new subscribers will be subject to a ten per cent (10%) discount, provided the bill is paid at the Pacific Company's office within thirty days after date of bill.

Business subscribers on farmer lines pay double the regular farmer line rate.

Provided that this permission is not to be taken as approval of the rates since the Commission has not yet passed upon their ultimate reasonableness; and

Provided, further, that the Commission's findings are limited strictly to this particular case and are not to be taken as a precedent to be followed in any other proceeding before this Commission or other duly constituted authority.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of December, 1914.

DECISION NO. 2001.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AUTHORITY TO ISSUE EIGHT THOUSAND DOLLARS OF BONDS AND EIGHT THOUSAND EIGHT HUNDRED DOLLARS OF COMMON STOCK.

Application No. 1427.

Decided December 15, 1914.

Applicant applies for permission to issue bonds of the face value of $8,000.00 and stock of the par value of $8,800.00, proceeds to reimburse treasury for capital expenditures previously incurred, and a sufficient showing having been made to warrant the issue of bonds, such authorization granted, said bonds to be sold at not less than 90. Authorization to issue stock deferred temporarily until the Commission's auditing department shall have made a more thorough investigation into applicant's expenditures properly chargeable to capital account.

C. S. S. Forney, for Applicant.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by Central California Gas Company for authority to issue $8,000.00 of its first mortgage bonds to be sold at 90 per cent of face value and to issue $8,800.00 par value of its common capital stock to be sold at 80 per cent of par, or $7,040.00. The applicant thus proposes to realize $14,240.00 to reimburse it for expenditures heretofore made. The applicant groups these expenditures for which it now desires to be reimbursed as follows:

Accessory equipment at works	$7,950 04
Gas services	6,339 01
Gas meters	109 00
Gas regulators	62 50
Purification apparatus	1,150 22
Distribution mains	61 50
General equipment	117 55
Total	$15,789 82

Applicant submits a list in detail of the items comprising these totals as Exhibit "A." An examination of these items raises several questions which must be hereafter determined through the medium of an audit.

Under applicant's mortgage and deed of trust it may issue bonds up to 75 per cent of the cost of additions and betterments, and may issue said bonds only when its net earnings for the year previous shall have been twice the interest on the outstanding bonds plus the bonds proposed to be issued.

For the twelve months ending November 30, 1914, the applicant submits the following statement of earnings:

Gross revenue		$78,585 06
Operating expenses	$33,583 03	
Maintenance	4,580 43	
Taxes	3,547 12	
Insurance	600 00	
		42,310 58
Gross income		36,274 48
Interest		16,357 00
Sinking fund reserve		2,650 00
Net income		17,267 48
Appropriation to renewal reserve		5,065 00
Appropriation for dividends		14,819 00

The applicant urges the immediate need of the bonds herein applied for for purposes of reimbursement. As there are several items for which the applicant desires to be reimbursed, I shall defer any decision at this time on the application to issue the stock. As soon as a proper examination can be made of this matter by the auditing department of the Commission, a supplemental order will be issued as to the stock issue. Applicant has made a sufficient showing, however, to justify the issue of bonds in the sum of $8,000.00 for purposes of reimbursement.

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In Application No. 1168 this Commission authorized Central California Gas Company to issue $15,000.00 of bonds and $10,000.00 par value of common stock. At the hearing upon Application No. 1427 herein, Mr. C. S. S. Forney, for applicant, reported that it had issued $10,000.00 of bonds and $1,000.00 of common stock under the order upon Application No. 1168. Mr. Forney requested further that the Commission cancel the authority to issue the remaining $5,000.00 of bonds and $9,000.00 of common stock.

For the reasons heretofore stated, I recommend that the application be granted and submit the following form of order:

ORDER.

Central California Gas Company having made application to this Commission for authority to issue $8,000.00 of its first mortgage 6 per cent bonds and for authority also to issue $8,800.00 par value of its common capital stock,

And a hearing having been held and it appearing that the purposes for which the applicant herein proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Central California Gas Company be given authority, and it is hereby given authority, to issue $8,000.00 of first mortgage 6 per cent bonds, under its mortgage and deed of trust to Los Angeles Trust and Savings Bank, dated July 1, 1912.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be sold so as to net the applicant not less than 90 per cent of the face value thereof plus accrued interest;

(2) The proceeds derived from the sale of said bonds shall be used for the purpose of reimbursing the applicant for expenditures heretofore made as per applicant's Exhibit "A," attached to the application herein;

(3) The authority herein given shall apply to such bonds as shall have been issued on or before June 30, 1915;

(4) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act;

(5) Within thirty days after the bonds herein authorized to be issued shall have been issued, the applicant shall report such issue and the terms of sale of said bonds.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of December, 1914.

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Decision No. 2002.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF FIFTEEN THOUSAND DOLLARS AND COMMON STOCK OF THE PAR VALUE OF TEN THOUSAND DOLLARS.

Application No. 1168.

Decided December 15, 1914.

Report of the Commission.

Loveland, *Commissioner.*

FIRST SUPPLEMENTAL ORDER.

This Commission, on June 17, 1914, in Decision No. 1586, in the above entitled matter, having authorized Central California Gas Company to issue $15,000.00 of its first mortgage 6 per cent bonds and $10,000.00 of its common capital stock;

And Central California Gas Company, through its president, Mr. C. S. S. Forney, having in the hearing upon Application No. 1427 reported to this Commission that it had issued $10,000.00 of bonds and $1,000.00 of stock under the order upon Application No. 1168;

And Central California Gas Company having also requested at said hearing upon Application No. 1427, through its president, Mr. C. S. S. Forney, that the order upon Application No. 1168 be amended so as to cancel the authority therein given as to the issue of $5,000.00 of bonds and $9,000.00 of common capital stock,

It is hereby ordered that the order of this Commission upon Application No. 1168, Decision No. 1586, be amended and it is hereby amended so as to authorize Central California Gas Company to issue $10,000.00 only of applicant's 6 per cent bonds, and $1,000.00 par value only of applicant's common capital stock.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of December, 1914.

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DECISION No. 2003.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE THREE-YEAR SIX PER CENT NOTES.

Application No. 1303.

Decided December 15, 1914.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

This Commission, on October 6, 1914, in Decision No. 1843, having authorized Western States Gas and Electric Company to issue $731,000.00 of its three-year 6 per cent promissory notes, and the applicant herein, in Application No. 1450, having applied to this Commission for authority to issue $101,000.00 of its 5 per cent bonds in lieu of $142,700.00 of its three-year 6 per cent notes heretofore authorized.

And the applicant having, in the hearing upon said Application No. 1450, requested that this Commission cancel the authority heretofore granted to issue $142,700.00 of applicant's three-year 6 per cent notes.

It is hereby ordered that this Commission's order upon Application No. 1303, Decision No. 1843, be amended, and it is hereby amended to the end that the applicant shall have authority to issue $588,500.00 of the three-year 6 per cent notes therein authorized in lieu of the authority to issue $731,000.00 of said notes.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of December, 1914.

DECISION No. 2004.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE ONE HUNDRED AND ONE THOUSAND DOLLARS OF BONDS.

Application No. 1450.

Decided December 15, 1914.

Applicant authorized to issue $101,000.00 face value of its bonds to be sold at not less than 82½, proceeds to reimburse treasury for moneys expended properly chargeable to capital account.

Allen Chickering, for Applicant.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

In its decision upon Application No. 1303 this Commission authorized Western States Gas and Electric Company to issue $731,000.00 of its three-year 6 per cent promissory notes. The applicant reports that it has sold $280,000.00 of these notes at 92½ per cent of face value and has realized therefrom $260,540.00.

It now appears to the applicant that an opportunity offers for the sale of bonds and it now applies for authority to issue $101,000.00 of its 5 per cent bonds in lieu of $142,500.00 of the three-year notes heretofore authorized in this Commission's decision upon Application No. 1303. The applicant proposes to sell these bonds at not less than 82½ per cent of face value and to apply the proceeds to the same purposes to which it was authorized to devote the proceeds from the sale of its notes authorized in Decision No. 1843 of this Commission.

Under the applicant's mortgage and deed of trust to Girard Trust Company of Philadelphia, dated January 1, 1911, Western States Gas and Electric Company may issue bonds up to only 75 per cent of the cost of additions and betterments and may issue these bonds only when its net earnings for a period of one year, sixty days prior to its application to the trustee for said bonds, shall have been twice the interest on outstanding bonds plus the bonds for which application is made. A statement submitted by applicant as Exhibit "A" in connection with the present application shows the following for the twelve months ending October 31, 1914:

Gross earnings	$1,104,622 98
Operating expenses	596,408 49
Net earnings	508,214 49

The present application is based primarily upon the evidence submitted in connection with Application No. 1303, to which reference is hereby made. The Commission, in passing upon that application, authorized the applicant to issue $731,000.00 of notes to take care of indebtedness, accounts, and additions and betterments in a total sum of $675,386.65. The present application is merely for authority to substitute $101,000.00 of bonds for $142,700.00 of notes therein authorized. An issue of bonds is, of course, a more desirable form of financing.

I recommend that the application be granted, and submit the following form of order:

ORDER.

Western States Gas and Electric Company having made application to this Commission for authority to issue $101,000.00 of its 5 per cent bonds under its mortgage and deed of trust to Girard Trust Company, of Philadelphia, dated June 1, 1911.

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And a hearing having been held and it appearing that the purposes for which the applicant proposes to use the proceeds from the sale of said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Western States Gas and Electric Company be granted authority, and it is hereby granted authority, to issue $101,000.00 of its 5 per cent bonds under its mortgage and deed of trust to Girard Trust Company, of Philadelphia, dated June 1, 1911.

The authority herein granted is granted upon the following conditions, and not otherwise:

(1) The authority herein given is given in substitution for the authority given in this Commission's Decision No. 1843 upon Application No. 1303 for the issue of $142,700.00 of notes;

(2) The proceeds from the sale of the bonds herein authorized to be issued shall be applied upon the purposes to which the applicant herein was authorized to devote the proceeds from the sale of its notes authorized by this Commission in its Decision No. 1843 upon Application No. 1303, and more specifically enumerated under section 2 of the order in said decision;

(3) The bonds herein authorized to be issued shall be sold so as to net the applicant not less than 82½ per cent of their face value plus accrued interest thereon;

(4) Western States Gas and Electric Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order;

(5) The authority herein granted shall apply to such bonds as shall have been issued on or before December 1, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of December, 1914.

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DECISION No. 2005.

IN THE MATTER OF THE APPLICATION OF NAPA CITY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE ON BONDS OF THE FACE VALUE OF TWENTY THOUSAND DOLLARS.

Application No. 1211.

IN THE MATTER OF THE APPLICATION OF NAPA CITY WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TEN THOUSAND DOLLARS.

Application No. 1212.

Decided December 15, 1914.

E. L. Johnson, for Napa City Water Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

FIRST SUPPLEMENTAL ORDER.

This Commission on July 16, 1914, in the above entitled matters, in Decision No. 1673, having authorized the Napa City Water Company to issue $30,000.00 of its 5 per cent bonds, and said order having provided that said bonds should be sold at par, and Napa City Water Company now having reported to this Commission that $15,500.00 of said bonds have been issued at par and that the remaining $14,500.00 of said $30,000.00 of bonds could be sold at 90 per cent of par and no more, and a hearing having been held and it appearing that the proceeds from the sale of the said $14,500.00 of bonds at 90 per cent of par will be used to extinguish indebtedness upon which the applicant is now paying interest at 7 per cent per annum.

It is hereby ordered that the authority heretofore granted to the Napa City Water Company in this Commission's Decision No. 1673, to issue $30,000.00 of bonds and to sell said bonds so as to net the face value thereof, be and it is hereby amended to the end that applicant may issue $14,500.00 of said bonds so as to net not less than 90 per cent of the face value thereof plus accrued interest thereon.

In all other respects the order of this Commission in the above entitled matters (Decision No. 1673) shall stand as issued.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of December, 1914.

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DECISION No. 2006.

THE BOARD OF TRADE OF SIERRA MADRE ET AL.

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 567.

Decided December 15, 1914.

Complainants petition the Commission to compel defendant railway company to double track approximately four miles of its right of way through Sierra Madre, to construct a station in said city and to rearrange its time schedule, and such station having been constructed and a rearrangement of time schedules effected, and it appearing that the double tracking desired is not essential, there being numerous other improvements needed on defendant's system far more urgently, complaint dismissed.

F. D. R. Moote and *Charles C. Montgomery*, for Complainants.

Frank Karr, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

The Board of Trade of Sierra Madre complains against Pacific Electric Railway Company, and asks that said defendant be compelled to build a station in the city of Sierra Madre and to double track approximately four miles of its line running into Sierra Madre, and to rearrange its schedule of trains.

At the hearing defendant agreed to build the station, the plans of which had been agreed upon, and this has since been done. The schedule of trains has recently been rearranged, and this schedule should be given a reasonable trial.

There is only left for consideration in this case, therefore, whether or not defendant should be compelled to double track its line.

Defendant estimates the cost of this double tracking to be approximately $88,000.00 and strongly urges that the investment of this money in this extra track at this time is not justified by the traffic, nor is it needed by the community of Sierra Madre. Furthermore, evidence was introduced to show that there are many single track lines of defendant serving communities whose needs are greater than those of Sierra Madre.

There are also communities now demanding of defendant the extension of its line where no trackage now exists, and under all of the circumstances I do not believe we should at this time force the installation of this track, particularly in view of the needs of communities which are not now receiving direct service from defendant, and, inasmuch as the funds of defendant do not warrant all of the double tracking and

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all of the extensions which are demanded, it will become necessary from time to time to conclude which are the additions to the trackage of defendant most urgently needed. I therefore recommend that this complaint be dismissed, and herewith submit the following form of order:

ORDER.

Complaint having been made by the Board of Trade of Sierra Madre et al. against Pacific Electric Railway Company, and a public hearing having been had, and it appearing to the Commission that for the reasons set out in the foregoing opinion this complaint should be dismissed.

It is hereby ordered, by the Railroad Commission of the State of California, that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of December, 1914.

DECISION NO. 2007.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN AND EASTERN RAILWAY COMPANY FOR AUTHORITY TO RENEW A PROMISSORY NOTE.

Application No. 1442.

Decided December 18, 1914.

Applicant authorized to issue its promissory note in the sum of $10,000.00, with interest at 6 per cent, to renew a note in a like amount now due, also to renew such note at such periods as applicant may desire, provided that the original term and renewals shall not exceed two years.

Samuel Haskins, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

San Joaquin and Eastern Railroad Company having made application to this Commission for authority to issue a note in the principal sum of $10,000.00 to be dated November 20, 1914, payable to Union National Bank of Fresno, to mature three months after date, with interest at the rate of 6 per cent per annum;

And San Joaquin and Eastern Railroad Company having also asked for authority to renew said note for a period not to exceed two years, and a hearing having been held and it appearing that the note for which application is now made will be used to refund a note in like

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amount to Union National Bank of Fresno, the proceeds of which were used for purposes not reasonably chargeable to operating expenses or to income.

It is hereby ordered that San Joaquin and Eastern Railroad Company be granted authority and it is hereby granted authority to issue a note in the sum of $10,000.00 to be dated November 20, 1914, to bear interest at the rate of 6 per cent per annum and to mature three months after date.

It is hereby ordered that San Joaquin and Eastern Railroad Company be granted authority and it is hereby granted authority to renew said note of $10,000.00 herein authorized to be issued in like amount, at a like rate of interest, from time to time, to a maturity not exceeding two years from date.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The applicant shall report within thirty days after the note herein authorized to be issued has been issued, and shall likewise, within thirty days after renewal notes herein authorized shall have been issued, report such issue to this Commission, together with the terms and conditions of such issue.

(2) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

(3) The authority herein granted shall apply to such notes as shall have been issued on or before December 1, 1916.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1914.

DECISION NO. 2008.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF CERTAIN NOTES.

Application No. 1452.

Decided December 18, 1914.

Applicant authorized to renew promissory notes aggregating the principal sum of $24,795.67 for a period of one year.

W. A. *Sutherland*, for Applicant.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Midland Counties Public Service Corporation for an order authorizing the issue of certain promissory notes aggregating $24,795.67.

Applicant has at present outstanding promissory notes aggregating the above amount which are falling due, and it is proposed to issue promissory notes to the same persons in like amounts as a renewal thereof.

The testimony is that the proceeds from the issuance of the original notes was all used for capital purposes. Therefore, I recommend that the application be granted and submit herewith a form of order:

ORDER.

Application having been made by Midland Counties Public Service Corporation for an order authorizing the issue of promissory notes aggregating $24,795.67, and a public hearing having been had, and it appearing to the Commission that the proceeds from the issuance of the promissory notes herein asked to be authorized are not reasonably chargeable, in whole or in part, to operating expenses or to income, and that it is reasonably necessary that applicant issue such promissory notes to retire certain of its obligations.

It is hereby ordered, by the Railroad Commission of the State of California, that Midland Counties Public Service Corporation is hereby authorized to issue promissory notes in the following amounts, at the following named interest, to the following named persons:

Payee	Amount	Interest
Westinghouse Electric and Manufacturing Company	$3,104 97	6 per cent
John A. Roebling's Sons Company	953 01	7 per cent
Western Electric Company	1,608 07	6 per cent
First National Bank—Santa Maria	1,500 00	7 per cent
Union National Bank—San Luis Obispo	4,000 00	7 per cent
Kelman Electric Manufacturing Company	1,261 10	7 per cent
First National Bank—Paso Robles	2,500 00	8 per cent
A. C. Balch	3,289 53	6 per cent
A. G. Wishon	3,289 55	6 per cent
Abe Haas	1,644 77	6 per cent
Kaspare Cohn	1,644 77	6 per cent

The notes herein authorized to be issued shall be used only for the purpose of renewing or retiring promissory notes in like amounts now outstanding, payable to the above named persons, and the notes herein authorized shall be made payable not to exceed one year from the date of maturity of the notes to be renewed thereby.

Immediately upon issuing any of the notes herein authorized report shall be made to the Railroad Commission of the State of California.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1914.

DECISION NO. 2009.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF CERTAIN PROMISSORY NOTES.

Application No. 1453.

Decided December 18, 1914.

Applicant authorized to renew, for a period of one year, promissory notes aggregating the principal sum of $92,500.00.

W. A. Sutherland, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by San Joaquin Light and Power Corporation for authority to issue certain promissory notes for various amounts aggregating $92,500.00.

Representatives of applicant testified that the money derived from the issuance of the notes which are to be renewed was all expended for capital purposes.

I recommend that the application be granted and submit herewith a form of order:

ORDER.

Application having been made by San Joaquin Light and Power Corporation for an order authorizing the issue of certain promissory notes, which said notes are to be issued as renewals of certain promissory notes now outstanding, and a public hearing having been had and it appearing to the Commission that the purposes for which the proceeds of said notes are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that it is reasonably necessary that said notes be issued to refund obligations of applicant,

It is hereby ordered, by the Railroad Commission of the State of California, that San Joaquin Light and Power Corporation is hereby

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authorized to issue promissory notes in the following amounts and rates of interest to the following named persons, to wit:

Payee	Amount	Interest
Allis-Chalmers Manufacturing Company	$4,000 00	6 per cent
General Electric Company	7,500 00	7 per cent
Westinghouse Electric and Manufacturing Company	3,000 00	6 per cent
First National Bank—Madera	5,000 00	7 per cent
Allis-Chalmers Manufacturing Company	11,500 00	6 per cent
General Electric Company	3,000 00	7 per cent
General Electric Company	10,000 00	6 per cent
Standard Underground Cable Company	2,000 00	6 per cent
Standard Oil Company	5,000 00	6 per cent
Farmers and Merchants National Bank—Merced	5,000 00	7 per cent
Allis-Chalmers Manufacturing Company	6,500 00	6 per cent
First National Bank—Bakersfield	15,000 00	6 per cent
Chas. C. Moore & Company	10,000 00	6 per cent
Commercial Bank of Sanger	5,000 00	6 per cent

Said promissory notes hereby authorized to be issued shall be used only for the purpose of renewing or retiring those certain promissory notes set out in the application herein, and the promissory notes hereby authorized to be issued shall be made payable not longer than one year from the date of the maturity of the note which is to be renewed.

Immediately upon issuing any of the notes herein authorized report shall be made to the Railroad Commission of the State of California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1914.

Decision No. 2010.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO PURCHASE CERTAIN PROPERTIES OF THE SELMA WATER WORKS, THE MADERA WATER WORKS, THE MADERA LIGHT AND POWER COMPANY, THE LEMOORE LIGHT AND POWER COMPANY AND THE BAKERSFIELD GAS AND ELECTRIC LIGHT COMPANY.

Application No. 1458.

Decided December 18, 1914.

Selma Water Works, Madera Water Works, Madera Light and Power Company, Lemoore Light and Power Company and Bakersfield Gas and Electric Light Company authorized to transfer all of their property to the San Joaquin Light and Power Corporation, and in consideration thereof the latter company to cancel all of the outstanding stock of aforementioned companies with the exception of qualifying directors' stock in the Bakersfield Gas and Electric Light Company.

W. A. *Sutherland*, for Applicant.

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REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by San Joaquin Light and Power Corporation, joined in by Selma Water Works, Madera Water Works, Madera Light and Power Company, Lemoore Light and Power Company and Bakersfield Gas and Electric Light Company, whereby authority is asked to transfer all of the properties of said last named corporations to San Joaquin Light and Power Corporation.

San Joaquin Light and Power Corporation now owns all of the capital stock of the other corporations named and is now and for some time past has been actually operating the properties of said corporations as a part of its general system.

It is now proposed by San Joaquin Light and Power Corporation to take over the technical legal ownership of the properties of these companies and except as to Bakersfield Gas and Electric Light Company to cancel and retire all of the capital stock of said companies.

The legal entity of Bakersfield Gas and Electric Light Company will be maintained because it has an outstanding bond issue, and as to this corporation it is proposed to cancel all of its stock except sufficient to maintain its corporate entity and to qualify directors.

I recommend that the application be granted and submit herewith a form of order:

ORDER.

Application having been made by San Joaquin Light and Power Corporation, joined in by Selma Water Works, Madera Water Works, Madera Light and Power Company, Lemoore Light and Power Company and Bakersfield Gas and Electric Light Company, asking for authority to transfer all of the properties of said last mentioned corporations to said San Joaquin Light and Power Corporation, and a public hearing having been had, and it appearing to the Commission that said application should be granted,

It is hereby ordered, by the Railroad Commission of the State of California, that Selma Water Works, Madera Water Works, Madera Light and Power Company, Lemoore Light and Power Company and Bakersfield Gas and Electric Light Company are hereby authorized to transfer and convey to San Joaquin Light and Power Corporation all of the property, both real and personal, now belonging to said corporations.

In consideration for said transfer San Joaquin Light and Power Corporation shall cancel all of the capital stock of said corporations, except that sufficient of the capital stock of Bakersfield Gas and Electric Company shall be retained to qualify directors.

As soon as may be the corporate entity of Selma Water Works, Madera Water Works, Madera Light and Power Company and Lemoore Light

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and Power Company shall be dissolved, the corporate entity of Bakersfield Gas and Electric Light Company being maintained for the reasons set out in the opinion herein.

Immediately upon the transfer being made which is hereby authorized report shall be made to the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1914.

DECISION NO. 2011.

IN THE MATTER OF THE APPLICATION OF RODEO LAND AND WATER COMPANY TO SELL ITS WATER, GAS AND ELECTRIC PLANTS AND SYSTEMS TO BEVERLY HILLS UTILITIES COMPANY, AND OF BEVERLY HILLS UTILITIES COMPANY TO ISSUE STOCK.

Application No. 1425.

Decided December 18, 1914.

Rodeo Land and Water Company desiring to separate its utility from its land business, applies for permission to sell to the Beverly Hills Utilities Company its general utilities business consisting of gas, electricity and water distributing systems, which application is granted, together with authorization permitting the issuance by the Beverly Hills Utilities Company of 100 shares of its capital stock of the par value of $100.00 per share in payment thereof, provided that such par value of stock shall not be taken before a rate fixing body as bearing a relation to the fair value of such property for rate fixing purposes.

Samuel M. Haskins, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Rodeo Land and Water Company owns a tract of land adjoining the city of Los Angeles at Beverly Hills. This company is engaged in selling off this real estate for residential purposes. It has developed a high class residence section which has been incorporated into the town of Beverly Hills, Los Angeles County. As part of its general system of operations, the Rodeo Land and Water Company has undertaken to serve Beverly Hills with water, gas and electricity. It has thus become a public utility. It is now the desire of the Rodeo Land and Water Company to form a separate corporation which shall handle all of the utility business, leaving the Rodeo Land and Water Company merely a real estate corporation. It is in pursuance of this plan that this application has been filed.

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The city of Beverly Hills embraces approximately 1,600 acres and, according to the testimony introduced, has a population of about 600. It was stated by the applicants that the value of the utility properties now owned by Rodeo Land and Water Company was as follows:

For the gas system	$26,315 78
For the electric business	26,939 88
For the water business	190,351 48

On September 15, 1914, Beverly Hills Utilities Company was incorporated by the same interests which control the Rodeo Land and Water Company. It is now proposed to transfer the gas, electric and water systems to Beverly Hills Utilities Company. It is, of course, desirable that the utility and real estate functions of the Rodeo Land and Water Company be separated and it has been the policy of this Commission to approve such a separation as is now proposed.

I recommend, therefore, that Rodeo Land and Water Company be granted authority to sell its gas, electric and water systems to Beverly Hills Utilities Company.

The second feature of this application is the proposal that Beverly Hills Utilities Company issue in payment for these properties 2,000 shares of its capital stock of the par value of $100.00 per share, or a total par value of $200,000.00. It is proposed that 1,995 of these shares be issued to Rodeo Land and Water Company and that the remaining five shares be issued, one share each, to the following incorporators of Beverly Hills Utilities Company:

Burton E. Green,
Wm. G. Kerckhoff,
J. M. Danziger,
Oscar C. Mueller, and
W. E. Dunn.

At the hearing upon this matter the attention of the applicant was called to the fact that certain parts of the water system had been built in anticipation of the future needs of Beverly Hills, and that this extra investment had been made for the benefit of the Rodeo Land and Water Company to enable it more advantageously to market its real estate. While the investment made might have been equal to the amount of stock desired, namely, $200,000.00, it is, of course, obvious that in regulating the rates of a utility, the Commission would authorize a return only upon those portions of the system used and now useful. A stock issue of $200,000.00 might, therefore, be open to misinterpretation on the part of a prospective investor not wholly acquainted with the facts. To meet this situation the applicant has filed a letter with this Commission under date of December 12. In this letter it is stated that

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Rodeo Land and Water Company and Beverly Hills Utilities Company submit the following:

First—That they will agree that the order may contain a provision requiring the Rodeo Land and Water Company not to sell that stock unless authorized so to do by the Railroad Commission.

Second—That they will consent that the order specify that only stock of the par value of $10,000.00 shall be issued by the Beverly Hills Utilities Company in payment for said properties, provided the order explicitly states that such par value of such stock shall not be taken as an indication of the value of the properties conveyed for rate fixing purposes, or for any other purpose.

The gas system now serving Beverly Hills consists chiefly of a distributing system. The gas is purchased from the Southern California Gas Company at the junction of Wiltshire boulevard and Gwendolyn drive at 50 cents per 1,000 cubic feet. The gas consists of a mixture of natural and artificial gas. It is sold in Beverly Hills on a basis of 80 cents per 1,000 cubic feet. The electric system of the applicant consists chiefly of substation, etc., and distribution system. Current is purchased from the Southern California Edison Company at 2 cents per kilowatt hour and retailed in Beverly Hills at 7 cents per kilowatt hour. The Rodeo Land and Water Company develops its own water supply, which it sells on a basis of 7 cents per 100 cubic feet.

While there are certain elements entering into the valuation submitted, such as water rights, upon which comment might well be made, it will be unnecessary to go into these matters, in view of the letter submitted by applicant heretofore referred to.

It appears that there are approximately 93 patrons of the water, gas and electric systems.

The applicant has filed the following statement of earnings for the twelve months ending October 31, 1914:

Lighting system—		
Gross earnings	$6,420 86	
Expenses	4,635 07	
Net earnings		$1,785 79
Water system—		
Gross earnings	$6,957 04	
Expenses	5,446 78	
Net earnings		1,510 26
Gas system—		
Gross earnings	$4,283 88	
Expenses	3,034 50	
Net earnings		1,249 38
Total net earnings		$4,545 43

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The applicant has submitted a form of deed in connection with the application herein which has been marked Exhibit "D."

I believe the purposes of this application will be satisfied by an authorization at this time to Beverly Hills Utilities Company to issue 100 shares of its capital stock of the par value of $100.00 per share, or a total par value of $10,000.00. The applicant may, of course, come before this Commission at any future time for a further issue of its stock.

I recommend, therefore, that the applications be granted in accordance with the foregoing opinion and I submit the following form of order:

ORDER.

Rodeo Land and Water Company having applied to this Commission for authority to sell to Beverly Hills Utilities Company its gas, electric and water systems, consisting of properties set out in detail in the application herein as Exhibits "A," "B" and "C" in a form substantially as provided in a form of deed submitted by the applicants as Exhibit "D" in connection with this application,

And a public hearing having been held and it appearing that the public interest will be served by such transfer,

It is hereby ordered that Rodeo Land and Water Company be granted authority and it is hereby granted authority to transfer to Beverly Hills Utilities Company its gas, electric and water systems, consisting of properties described in Exhibits "A," "B" and "C" on file in connection with the application herein, and to make such transfer substantially in the form of a proposed deed filed in connection with the application herein and marked Exhibit "D."

The authority herein granted to make said transfer is granted upon the following conditions and not otherwise:

(1) Said transfer shall be made before June 30, 1915, and the applicant shall report such transfer to this Commission within thirty days after the completion of the transaction.

(2) Nothing herein shall be construed as a finding by this Commission of any value or values upon the public utility properties herein discussed.

And Beverly Hills Utilities Company having made application to this Commission for authority to issue 2,000 shares of its capital stock of the par value of $100.00 per share, and Beverly Hills Utilities Company having subsequently amended said application to a request for authority to issue 100 shares of its capital stock of the par value of $100.00 per share;

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And from the evidence adduced at this hearing, it appearing that the purposes for which Beverly Hills Utilities Company proposes to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Beverly Hills Utilities Company be given authority and it is hereby given authority to issue 100 shares of its capital stock of the par value of $100.00 per share.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The stock herein authorized to be issued shall be issued only after Rodeo Land and Water Company shall have given a good and sufficient deed to Beverly Hills Utilities Company for the gas system, electric system and water system heretofore described and more particularly described in Exhibits "A," "B" and "C" attached to the application herein.

(2) The stock herein authorized to be issued shall be issued to the following parties in the following amounts:

95 shares to Rodeo Land and Water Company,
1 share to Burton E. Green,
1 share to Wm. G. Kerckhoff,
1 share to J. M. Danziger,
1 share to Oscar C. Mueller,
1 share to W. E. Dunn.

(3) The par value of the stock herein authorized to be issued shall not be taken as an indication of the value of the properties herein conveyed to Beverly Hills Utilities Company for rate fixing purposes or for any other purposes.

(4) The authority herein granted shall apply to such stock as shall have been issued on or before June 30, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1914.

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Decision No. 2012, grade crossing; not printed. See end of volume.

DECISION NO. 2013.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AUTHORITY TO ISSUE EIGHT HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS OF BONDS.

Application No. 1240.

Decided December 18, 1914.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

This Commission on October 19, 1914, having issued an order in the above entitled matter and this Commission, on November 25, 1914, having issued its first supplemental order in the above entitled matter authorizing Los Angeles and San Diego Beach Railway Company to issue $375,000.00 face value of bonds, and said order having provided, among other conditions, that said bonds should be issued only after this Commission had, in writing, approved applicant's proposed mortgage and deed of trust;

And the applicant now having filed its proposed mortgage and deed of trust, being an indenture between Los Angeles and San Diego Beach Railway Company and Southern Trust and Savings Bank of San Diego, dated December 31, 1914, which has been marked Exhibit "I" in connection with the application herein, to which reference is hereby made,

It is hereby ordered that said mortgage and deed of trust by and between Los Angeles and San Diego Beach Railway Company and Southern Trust and Savings Bank of San Diego, filed as Exhibit "I" in connection with the application herein, be and the same is hereby approved.

The foregoing second supplemental order is hereby approved and ordered filed as the second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of December, 1914.

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Decisions Nos. 2014 and 2015, grade crossings; not printed. See end of volume.

Decision No. 2016.

IN THE MATTER OF THE APPLICATION OF THE COUNCIL OF THE CITY OF RICHMOND, STATE OF CALIFORNIA, FOR AN ORDER PERMITTING THE CONSTRUCTION AND MAINTENANCE OF A GRADE CROSSING ACROSS THE TRACKS AND RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY ON BISSELL AVENUE, IN THE CITY OF RICHMOND.

Application No. 1347.

Decided December 21, 1914.

The city of Richmond desiring to open another grade crossing across the four main line tracks of the Southern Pacific Company applies to the Commission for such permission and it appearing that there are at the present time two well paved highways crossing these tracks within close proximity to the proposed crossing, that owing to the number of trains passing daily such crossings are extremely dangerous and that an additional crossing would only add to such danger, application dismissed.

D. J. Hall, for City of Richmond.

Geo. D. Squires, for Southern Pacific Company.

Report of the Commission.

Gordon, *Commissioner.*

In this application, which was filed on September 25, 1914, the city of Richmond desires an order by this Commission permitting the installation of a grade crossing on Bissell avenue, in said city, across the main line of the Southern Pacific Company. It is stated that public interest and convenience require this grade crossing. The city was unable to secure an easement for this crossing from the Southern Pacific Company, this company objecting to the opening of a grade crossing at this point, and the application was therefore set down for a hearing. This hearing was held in Richmond on December 16, 1914, the city of Richmond and the Southern Pacific Company were represented by counsel, testimony was taken, and the matter is now ready for decision.

Bissell avenue lies only one (1) block south of Macdonald avenue, which latter street is the main thoroughfare of the city of Richmond and is a continuous road from Point Richmond to Oakland. In an easterly direction Bissell avenue extends only two and one half (2½) blocks beyond the tracks of the Southern Pacific Company's main line and ends in Twenty-third street, while westerly from the railroad it extends for about one (1) mile and abuts, without an outlet, against the reservation of The Atchison, Topeka and Santa Fe Railway Company. Another street, namely, Chanslor avenue, is open one (1) block

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south of Bissell avenue across the Southern Pacific Company's tracks, so that within a distance of approximately fifteen hundred (1,500) feet there are two (2) open thoroughfares across this four-track main line—one street crossing by means of a subway and the other at grade. I can not agree, therefore, that there is any great need, from the point of view of necessity or convenience, for this crossing. The additional danger and hazard to pedestrians and vehicles would not, in my opinion, be outweighed by the advantages this crossing would offer.

There also exists at present a well paved street paralleling the permanent way of the Southern Pacific Company on the westerly side and connecting the present undergrade crossing at Macdonald avenue with the existing grade crossing at Chanslor avenue; and there is another street paralleling the railway on the easterly side connecting Bissell avenue with Chanslor avenue.

The main current of traffic at this point is between Richmond and Oakland, and a crossing at Bissell avenue would not in any material way facilitate this traffic.

The Southern Pacific Company operates here over four (4) main line tracks, two (2) of these being passenger tracks and two (2) freight tracks, and fifty-three (53) regular schedule trains per day, viz., forty-six (46) passenger and seven (7) freight trains pass here. The Southern Pacific Company's main line, furthermore, is on a curve through this locality, which is an additional reason, from a railroad operating standpoint, against the granting of this application.

It developed at the hearing that the principal necessity is not the establishment of an additional opening across the railway company's tracks, but the improvement of the existing subway at Macdonald avenue. The latter undoubtedly is inadequate and will sooner or later have to be reconstructed and enlarged. To make an attempt at remedying the existing conditions by the establishment of a very dangerous new grade crossing, in my opinion, is a move entirely in the wrong direction. The Commission's consistent policy must be not to introduce new deathtraps but to eliminate as many of the existing ones as may be possible. As in numerous other cases of this kind the theory was advanced by one witness that a multiplication of grade crossings would, so to speak, tend to dilute the danger and hazard to persons and vehicles using such crossings. It is maintained, therefore, that a situation where one hundred people use one grade crossing per day is more dangerous than if these one hundred people were distributed over ten grade crossings. This theory is wrong in principle and is not borne out by the facts, and there is no doubt in my mind that every additional grade crossing constitutes an additional danger to human life.

The Commission has held repeatedly that it will grant permission for new grade crossings only when it is clearly shown that a real need for

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such a crossing exists. In all cases this need must be weighed against the additional danger and hazard that will be created by the new crossing, and it is my opinion that in this case an absolute necessity for this crossing does not exist.

I recommend to the city of Richmond that it secure the desired relief, not by establishing new crossings at grade in this neighborhood, but by working out plans for making the Macdonald avenue subway adequate and safe. I am of the opinion that such plans can be perfected. and the Commission will be glad to be of such assistance as it may in this matter.

I recommend the following order:

ORDER.

City of Richmond, having made application to the Commission for permission to construct and maintain a grade crossing across the tracks and right of way of the Southern Pacific Company on Bissell avenue, in the city of Richmond, Alameda County, California, said crossing being shown on the map accompanying the application; and a public hearing having been held and testimony having been taken; and it appearing to the Commission that said application should not be granted,

It is hereby ordered that said application be and the same is hereby denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of December, 1914.

DECISION NO. 2017.

IN THE MATTER OF THE APPLICATION OF QUINCY WESTERN RAILWAY COMPANY FOR AUTHORITY TO CANCEL THE SEVENTY-CENT ROUND TRIP RATE BETWEEN QUINCY AND MARSTON, CALIFORNIA.

Application No. 1445.

Decided December 21, 1914.

Applicant contending that it is operating at a loss petitions the Commission for permission to cancel its 70-cent round trip fare between Quincy and Marston and such application being unanimously concurred in by the Quincy Chamber of Commerce, application granted.

REPORT OF THE COMMISSION.

Quincy Western Railway Company by this application seeks authority to cancel the round trip fare of 70 cents applying via its line between

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Quincy and Marston, California. In justification of the proposed change the petitioner alleges that said fare is too low for the service performed and its revenues are insufficient to meet its expenses, including interest and taxes. Further the petitioner alleges that the said round trip fare is of no benefit to the residents of Quincy and has not created any new traffic between stations on its line, which it was established to induce.

The Quincy Chamber of Commerce by its board of directors unanimously endorses this application.

The report of the Quincy Western Railway Company to this Commission for the year ending June 30, 1914, bears out its main contention. The income account in that report exhibits the following results:

Operating revenue	$14,131 64	
Operating expenses	12,110 02	
Operating income		$2,021 62
Taxes	$515 53	
Hire of equipment	222 20	
Rentals	134 46	
Interest	1,527 03	
		2,399 22
Deficit		$377 60

It may be that with certain economies this result could be slightly changed, but that relatively material increases in its revenues are required to establish petitioner firmly on its feet appears conclusive. Whether the cancellation of the round trip fare of 70 cents from Quincy to Marston will effect such an increase in the revenue of the petitioner is problematical, but under all the circumstances the Commission is of the opinion that the petitioner should be permitted to cancel the round trip fare and endeavor by that means to increase its revenues sufficiently to meet its expense, and it will be so ordered.

ORDER.

Quincy Western Railway Company having applied to this Commission for authority to cancel its 70-cent round trip fare between Quincy and Marston, California, and an investigation having been made and it appearing that the application should be granted,

It is hereby ordered that Quincy Western Railway be and it is hereby authorized to cancel its round trip passenger fare of 70 cents, applying between Quincy and Marston, California.

Dated at San Francisco, California, this 21st day of December, 1914.

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DECISION No. 2018.

CHAS. W. UBHOFF

vs.

VISTA GRANDE WATER COMPANY.

Case No. 708.

Decided December 21, 1914.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled matter having, on December 17, 1914, made written request to this Commission that the above entitled case be dismissed,

It is hereby ordered that the above entitled case be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 21st day of December, 1914.

DECISION No. 2019.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AUTHORITY TO ISSUE PROMISSORY NOTES AND BONDS.

Application No. 990.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AUTHORITY TO ISSUE BONDS.

Application No. 1152.

Decided December 21, 1914.

Preliminary to a decision upon applicant's request for authorization to issue bonds, it is authorized to issue $246,666.66 face value of one-year 7 per cent promissory notes to be secured by $370,000.00 face value of bonds which are also authorized to be pledged for this purpose. Provided that said notes shall be sold only to parties in interest connected with applicant who shall agree that such notes shall not be resold and shall be held by them until maturity.

REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner.*

FIRST SUPPLEMENTAL OPINION.

Heretofore, on June 23, 1914, in the above entitled matters, this Commission issued a preliminary order authorizing the applicant herein to issue $650,000.00 of one-year promissory notes and to issue as collateral

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security therefor, $1,000,000.00 of its general lien bonds. The applicant was authorized to use the proceeds of said notes as follows:

(*a*) For the reimbursement of applicant for moneys expended from income, and after such reimbursement to be used for the purpose of paying interest on applicant's outstanding bonds and notes in the sum of	$350,000 00
(*b*) For the reimbursement of applicant for moneys expended from income, and after such reimbursement to be used by applicant only for the purpose of discharging its taxes in the sum of	140,000 00
(*c*) For the purpose of making preliminary payments on a ferry boat to be used for carrying passengers between Oakland and the Panama-Pacific Exposition grounds in San Francisco, the sum of	60,000 00
(*d*) For the purpose of making preliminary payments on new street cars to be used in the city of Oakland, the sum of	100,000 00
Total	$650,000 00

The order was made applicable to such notes and to such bonds as should have been issued on or before October 1, 1914. The authority therein given was for the purpose of meeting urgent demands upon the applicant. The Commission at that time stated that it gave its authorization for the issue of the notes and bonds as requested merely to preserve the company in the best possible operating condition, pending a final determination of Application No. 990 and Application No. 1152.

The applicant has reported to this Commission that it has issued $420,630.00 of its promissory notes under the authorization previously given.

The applicant now asks this Commission to issue a second order providing for an additional issue of $246,666.66 of promissory notes, to be secured by a pledge of applicant's general lien bonds at such ratio that the face value of the notes issued may be 66⅔ per cent of the face value of the bonds pledged.

The applicant states that it desires to use the proceeds from the notes herein requested for the following purposes:

(*a*) For the reimbursement of applicant for expenditures from income, and after such reimbursement the application of the proceeds toward payment of bond interest	$148,922 30
(*b*) For the purchase of new cars	75,000 00
(*c*) For the payment of a portion of the cost of constructing interlocking tower at Stanford avenue and Lowell street, Oakland	22,744 36
Total	$246,666 66

I am disposed to grant the application herein made for the same reasons that prompted me to recommend the preliminary order in this matter. I recommend that the application be granted for the purpose of continuing the applicant in the best operating condition until Applications No. 990 and No. 1152 shall be decided finally, but this recommendation contemplates that the notes herein authorized shall be issued only to persons in direct interest in this corporation who shall be fully

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advised of all of the circumstances surrounding this applicant and who shall agree to hold the notes and the collateral until the maturity of the notes or until they shall have been paid or refunded.

The condition thus imposed will permit persons with extensive interests in this corporation to invest further funds to safeguard those interests, but will not admit persons not now interested into the community of this corporation's creditors.

This authorization, it must be clearly understood by those taking the notes herein authorized, in no way directly or indirectly commits this Commission to a favorable determination of either of the two applications of this corporation now before it. Accordingly I recommend the following form of order:

ORDER.

San Francisco-Oakland Terminal Railways having made application to this Commission as outlined in the foregoing opinion, and a hearing having been held,

It is hereby ordered that San Francisco-Oakland Terminal Railways be given authority and it is hereby given authority to issue its promissory notes for a period not to exceed one year, in a sum not to exceed $246,666.66.

It is hereby further ordered that San Francisco-Oakland Terminal Railways be given authority and it is hereby given authority to issue $370,000.00 of its general lien bonds as collateral security for the issue of said notes in the sum of $246,666.66, said bonds to be issued under applicant's general lien mortgage, a copy of which has been filed with this Commission in connection with Application No. 990.

The authority herein given is given upon the following conditions and not otherwise:

(1) The face value of the notes issued under the authority herein granted shall at no time be less than 66⅔ per cent of the face value of the bonds pledged as collateral.

(2) The notes herein authorized to be issued shall mature in a period not to exceed one year from date of issue and shall bear interest at a rate not to exceed 7 per cent per annum.

(3) Said notes shall be sold so as to net the applicant herein the face value thereof, plus accrued interest thereon.

(4) The proceeds to be derived from said notes shall be used for the following purposes only:

(*a*) For the reimbursement of applicant for moneys expended from income, and after such reimbursement, for the purpose of paying interest on applicant's outstanding bonds and notes in the sum of	$148,922 30
(*b*) For the purchase of new cars	75,000 00
(*c*) For the payment of a portion of the cost of constructing the interlocking tower at Stanford avenue and Lowell street, Oakland	22,744 36
Total	$246,666 66

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(5) The notes herein authorized to be issued shall be sold only to parties in interest in the applicant herein, who shall agree to hold said notes until maturity, or until paid or refunded.

(6) Applicant shall file with this Commission a list of persons who may purchase said notes, together with a statement of their connection with the applicant corporation; the amounts purchased by each, and a copy of the agreements by which these purchasers agree to hold said notes until maturity.

(7) When the notes herein authorized shall have been paid or otherwise discharged, the bonds herein authorized to be pledged shall be returned to the applicant's treasury and not thereafter issued without the approval of this Commission.

(8) Applicant herein shall report to this Commission on the twenty-fifth day of each month a list of the notes issued; the parties to whom issued, and the specific purposes to which the money derived from the sale of said notes has been devoted.

(9) The authority herein granted shall apply to such notes and such bonds as shall have been issued on or before June 30, 1915.

(10) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

The foregoing first supplemental opinion and order are hereby approved and ordered filed as the first supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of December, 1914.

DECISION No. 2020.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 808.

Decided December 22, 1914.

REPORT OF THE COMMISSION.

SIXTH SUPPLEMENTAL ORDER.

The Commission having in its orders heretofore made in this proceeding authorized San Diego and Arizona Railway Company to issue $10,000,000.00 face value of its general first lien 5 per cent sinking fund forty-year gold bonds, and to issue $3,000,000.00 par value of its capital stock upon certain conditions, including the following:

(*a*) None of the above bonds shall be issued until applicant shall have obtained the approval of the Commission of a plan for the sale at par of $3,000,000.00 of its capital stock.

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(*b*) Before any of the bonds or stocks herein authorized shall be issued, there shall be submitted for the approval of the Commission a complete plan for the organization of the Mexican corporation, which is to hold that part of applicant's railroad project which is and will be built in Mexico, and the placing of the assets of said corporation under the lien of the bonds herein authorized.

And it appearing that in order to comply with condition (*a*) above mentioned, an agreement was executed on November 9, 1914, between San Diego and Arizona Railway Company, party of the first part, and John D. Spreckels and A. B. Spreckels, parties of the second part, which provided in part:

That as the first party shall sell and deliver its bonds in excess of four million dollars ($4,000,000.00) par value, and up to ten million dollars ($10,000,000.00) par value, the second parties will purchase from and pay the first party for said three million dollars ($3,000,000.00) par value, of said stock, said sum of two million five hundred and fifty thousand dollars ($2,550,000.00), in the same proportion, so that when the said ten million dollars ($10,000,000.00) of bonds, par value, shall have been issued and paid for, said three million dollars ($3,000,000.00) of stock, par value, shall all be issued and paid for as aforesaid.

And it appearing that in order to comply with condition (*b*) above mentioned San Diego and Arizona Railway Company, on March 26, 1914, caused to be incorporated a Mexican corporation, viz: Compania del Ferrocarril de Tijuana y Tecate, S. A., and caused to be conveyed to said Mexican corporation a concession from the Mexican government for building and operating that part of applicant's railroad project which is and will be built in Mexico, and all of the rights of way and roadbed procured for that portion of the road, and has caused all the stock of said Mexican corporation to be placed in the hands of the Union Trust Company of San Francisco, under the provisions of applicant's trust deed dated December 1, 1914, as security for the bonds herein authorized to be issued; and it appearing to the Commission that this is a satisfactory compliance with the second condition above named,

It is hereby ordered that the Commission does hereby approve of the agreement above named, the formation of the Mexican corporation and the placing of the stock of this corporation in the hands of the Union Trust Company as security for the bonds herein authorized to be issued, and the Commission hereby states that applicant has satisfactorily complied with the two conditions above named.

Dated at San Francisco, California, this 22d day of December, 1914.

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DECISION No. 2021.

IN THE MATTER OF THE APPLICATION OF THE ROSEVILLE TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

Application No. 1451.

Decided December 22, 1914.

Applicant authorized to issue 400 shares of its capital stock of the par value of $10.00 per share, to be sold at not less than par, proceeds to be used for additions and betterments to plant.

G. M. Hanisch and *Walter Hanisch* for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by Roseville Telephone Company for an order of this Commission permitting it to issue and sell its capital stock to the amount of $4,000.00 at the par value of $10.00 per share, for purposes of making additions and betterments to its plant at Roseville, California. Of the amount of stock which it proposes to issue it desires to sell stock to pay for material already purchased for extensions and betterments amounting to $955.75, the approximate equivalent of ninety-five shares; the balance, $3,044.25, the approximate equivalent of 305 shares, to be issued and sold from time to time as further additions and betterments may be required during the next year. A detailed statement of the material already purchased has been submitted with the application.

The applicant has issued no bonds and aside from this bill for material and from ordinary current operating expenses is free from indebtedness. It desires to issue this entire amount of stock at par, and since the use to which it desires to put the money proposed to be obtained from its sale is for proper capital purposes, I recommend that the application be granted and submit the following form of order:

ORDER.

Application having been made to this Commission by Roseville Telephone Company for an order permitting it to issue 400 shares of its capital stock of the par value of $10.00 per share for the purpose of paying for material for making additions and betterments to its plant in the sum of $950.00 and for additions and betterments proposed to be made in the sum of $3,050.00; and a hearing having been held, and it appearing to the Commission that the purposes for which the applicant proposes to issue such stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Roseville Telephone Company be and it hereby is permitted to issue 400 shares of its capital stock of the par

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value of $10.00 per share for the purposes hereinabove specified upon the following conditions and not otherwise, to wit:

(1) The applicant may at this time issue 95 shares of its capital stock of the par value of $10.00 per share for the purpose of paying for material for making additions and betterments to plant as shown in a detailed statement filed in connection with the application herein.

(2) The applicant shall issue the remaining 305 shares of its capital stock herein authorized only after it shall have filed with this Commission a statement or statements satisfactory to the Commission showing in detail the additions and betterments for which the money proposed to be secured from the sale of the said 305 shares of stock will be used.

(3) The applicant shall realize not less than par value thereof for all stock authorized under this order.

(4) The applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month it shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which, so far as applicable, is made a part of this order.

(5) The authority herein granted shall apply to such stock as shall be issued on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of December, 1914.

DECISION No. 2022.

IN THE MATTER OF THE APPLICATION OF THE SAN JOAQUIN AND KINGS RIVER CANAL AND IRRIGATION COMPANY FOR APPROVAL OF CHANGE IN RATES.

Application No. 1358.

Decided December 22, 1914.

Applicant petitions for permission to increase its irrigation rates in Stanislaus County, basing its sole contention justifying such increase upon the decision of the United States Court that its rates in effect during the year 1907 were unduly low, and it appearing that such rates have been materially increased, application denied.

Edward F. Treadwell, for Applicant.

J. W. Hawkins, for Protestants.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In this application the San Joaquin and Kings River Canal and Irrigation Company, incorporated, asks for authority to increase the rate at which it supplies water for irrigation in Stanislaus County. This company operates a canal system supplying water in Fresno, Merced and Stanislaus counties. In 1911 the boards of supervisors of these counties fixed the following rates for water supplied by applicant:

Fresno County	$1.25 per acre per season
Merced County	$1.75 per acre per season
Stanislaus County	$2.00 per acre per season

Applicant now asks permission to increase the Stanislaus County rate to $2.25 per acre per season. In support of this request applicant claims that it is entitled to an increase of rates because of the decision of the Federal Court in the case of *San Joaquin and Kings River Canal and Irrigation Company* vs. *Stanislaus County,* 191 Fed. 875, and the decision of the Supreme Court of the United States in this same case, reported in U. S. Adv. Ops. 1913, page 652, and also because the proposed increase in rates is acceptable to all the water users in Stanislaus County. We can not agree with these contentions. The decisions referred to and upon which applicant relies, held that the rates fixed by the boards of supervisors in these three counties in 1907 were unreasonably low. The rates under consideration in those cases were as follows:

Fresno County	$ .85 per acre per season
Merced County	$1.65 per acre per season
Stanislaus County	$1.50 per acre per season

The rates fixed by the boards of supervisors in 1911 are considerably higher than the rates held to be unreasonably low in those cases, and we can not regard those decisions as authority for an increase of rates in the present proceeding. Over thirty persons using water from this system in Stanislaus County appeared at the hearing and protested against the application. A unanimous opinion in favor of the application does not, therefore, exist among the consumers. The applicant produced no other evidence to show that the existing rates are unreasonably low. I recommend, therefore, that the application be dismissed.

ORDER.

This application coming on regularly for hearing and the Commission being duly advised in the premises.

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of December, 1914.

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DECISION NO. 2023.

C. H. JONES, ET. AL.

vs.

NORTHERN WATER AND POWER COMPANY.

Case No. 642.

Decided December 22, 1914.

Complainants allege that defendant company has allowed its ditches to deteriorate to such an extent that they are unable to supply a sufficient amount of water and claim that it is defendant's intention to discontinue serving them with water and devote its appropriation to other uses.

Held, That though defendant is not operating its irrigation system at a profit it can not be permitted to discontinue such service, and it appearing that if its ditches were sufficiently repaired to enable it to furnish an amount of water necessary for irrigation purposes, it could considerably increase its sales, at least sufficient to pay for the necessary improvements. Defendant directed to repair its canal so as to enable it to deliver at a point near Graniteville 50 per cent of the amount taken in at the head of such canal, provided, that defendant need make no expenditures into capital account until the sum of $1.80 per acre on at least 400 acres has been paid in advance or properly guaranteed.

George B. Ginnegan, for Complainants.

Fred Searles and *L. P. Larue,* for Defendants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The complaint against the Northern Water and Power Company alleges, in brief, that this company is a public utility, and among other things is incorporated to distribute to the public, for hire, water, electric power, electric lights and kindred services as set forth in articles of incorporation dated September 23, 1905. Also, that the company owns and operates ditches, flumes and pipe lines conducting water obtained from various sources through that portion of Nevada County lying between the south and middle branches of the Yuba River and including the towns and settlements known as French Corral, Sweetland, Sebastopol, North San Juan, Cherokee, North Columbia, North Bloomfield, Lake City, Moores Flat, Graniteville and surrounding country, and that this utility company appropriates water and claims to be desirous of furnishing service to users in the territory named for irrigation, mining and other purposes.

It is claimed, in the petition filed, that the San Juan Ridge described is well adapted for agricultural purposes, and that if water is available at all times in sufficient amount for irrigation purposes, a large amount of water can be sold and the lands in the territory described can be successfully cultivated.

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Complaint is, however, made that for a number of years past, and particularly during the last three years, water has not been furnished to the complainants sufficient for their needs, and that the company has neglected their property, causing the entire or partial failure of a number of flumes and other structures forming a part of the utility's system. It is claimed that representatives of the corporation have refused to promise or guarantee any supply of water whatever, and that acts of the company have resulted in considerable loss to the complainants and the entire cessation of any additional improvements in the district. The claim is made that the real reason for the policy pursued by this corporation is to cause the complainants and other owners of lands to cease demanding service from the corporation, and so forfeit the right to demand such service, whereupon the company could, without opposition, discontinue their present obligation to maintain and operate their water carrying system and devote the water rights claimed to other purposes.

Considerable investigation was made into the affairs of this company, both physical and financial, and a public hearing was conducted on October 12, 1914, in Nevada City. It developed that the property of this company in the locality described is being used only for the purpose of providing water for domestic purposes in a few villages and to satisfy a limited demand for irrigation and for operation of mines. Only a portion of the original system is in actual use at this time, and ditches are carrying only a portion of their capacity.

There were originally three principal systems in service, which are now combined under the one ownership, and, where three main ditches at one time provided the principal part of the water supply, one only is now being used, this diverting directly below Bowman Lake.

The testimony of all witnesses justified the contention of complainants that the system is not in adequate service condition, particularly as regards the first ten miles of the main diversion canal, where there are nearly five miles of flume. It was testified that when 50 cubic feet per second was diverted into the headgate, only 12 second feet was delivered at the six-mile point, the remainder of the supply being unavoidably lost by seepage with the system in its present condition. The improvement of the flume on this portion of the ditch alone would be fully sufficient to insure an adequate supply of water to the complainants at all times, and it appears to be undoubtedly a fact that a certain amount of work must be done to enable the company to render any service of a reliable nature.

It hardly seems necessary to consider any other portion of the system to require more than such expense for maintenance as would avoid actual failure, but in this portion, there must be such improvement as will save to the consumers a portion of the water now lost.

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I do not intend to dictate to the company the exact methods that shall be used, nor the exact places where expense must be incurred in putting the system in such condition as to insure to their present users adequate service. As a suggestion only, I wish to call the attention of the defendant to testimony presented during the hearing in regard to the cost and effect of lining flumes with felt asphalt roofing as an emergency expedient. A reason put forward by the defendant to account for its failure to supply water sufficient to meet the needs of consumers, was that the Consolidated St. Gothard Mining Company, successor of the Delhi Mining Company, had diverted at Bloody Run, about half way from the source of water to the complainants, the supply that otherwise would have been distributed on San Juan Ridge.

On the first day of October, 1885, the Summit Water and Irrigating Company deeded to the Delhi Mining Company, the Bloody Run or Grizzly Ditch, with all rights and structures, and, "together with the water right and right to take and divert from Bloody Run and have and conduct in and through said water ditch, a quantity of water not in excess of 200 inches, miner's measure, at all times and seasons when said quantity of water may flow in or be contained or found in said Bloody Run."

The defendant company drops the water carried in the Milton Ditch into Bloody Run in section 21, township 18 north, range 10 east, and again diverts part in section 20 and a part in section 19 of the same range and township, the last named being the principal diversion of the supply carried along San Juan Ridge to the complainants.

The ditch deeded to the Delhi Mining Company is some mile and a half below this point. It seems reasonable to doubt whether the provision of the deed quoted above is sufficient to establish the right of the mining company to 200 miner's inches of water unless that amount is provided by the natural flow of Bloody Run. At all events, it does not justify the right of this company to divert more than 200 miner's inches. Yet, the defendant company has not made measurements of the amount passing down Bloody Run toward the ditch of the mining company, nor has it kept records from time to time to establish an opinion that the defendant company in this case has protected their consumers to the full extent of their ability.

Employee witnesses for the company testified that employees of the mining company have repeatedly interfered with gates belonging to the Northern Water and Power Company, and it appears that this company has made no effort to protect its property against trespass. The defendant company claims that it is unable to make improvements, however desirable they may be, for the reason that the returns from rates are entirely inadequate. It was testified by the superintendent of

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this water system that there had been expended in 1912, $16,551.00, and in 1913, $23,548.00, while the income in 1914 is $1,660.00; this covering the sale of water for all classes of use.

While the gross expenses stated include in part additions to capital account, there is no doubt that the returns are entirely inadequate to provide for the maintenance and operation of the system; nor does it seem possible that there can be a sufficient amount obtained from rate payers to provide for charges, as they are ordinarily computed, for many years to come. Nevertheless, this concern is operating as a public utility with all the obligations that its status involves, and so long as it does not go into outright bankruptcy, it is only right that it be required to fulfill all obligations.

There is a general understanding that the water rights held or claimed by this company are of great value, and while no returns are being realized on the value at the present time, there is every probability that at some future time the company may realize, and during the waiting period it must expect to operate at a loss.

Rates are not brought into question at this hearing, but as compared with other rates for irrigation and domestic use, they are not low nor so high as to be beyond doubt an unreasonable demand upon consumers, and it is undoubtedly true that no rate within the power of the present consumers to pay, could meet expenses. One line in which the company has apparently not made an effort is the increase of sales along the present lines of service. To determine what increase of demand might be developed, the complainants were required to prepare signed statements setting forth the acreage for which water would be required in the immediate future and the acreage which they would expect to put under irrigation ultimately. Blanks were prepared and submitted to all land owners that could be reached, reading as follows:

_____, Nevada County, California.

I am a land owner on the San Juan Ridge, Nevada County, Cal., along the line of the ditch system of the Northern Water and Power Company. My supply for irrigation must come from those ditches. If I am guaranteed all the water I can use, as I order it, and when I want it, I will take at rates to be fixed by the Railroad Commission of the State of California, for the

Year 1915 Water for_____acres.
Year 1916 Water for_____acres.
Year 1917 Water for_____acres.

and thereafter increase my acreage as rapidly as my means will permit.

I own_____acres that can be served from the said ditches.

_____

Dated_____day of_____1914.

The signed statements returned resulted in the following totals: guaranteed on 400 acres during 1915, 496 acres; during 1916, 592 acres; during 1917, 592, and a total ultimate area of 3,754 acres.

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It appears from the testimony that during 1914 there were about fifty acres under cultivation and irrigated by water from the defendant company. The returns from irrigation are now approximately $800.00 per year. If the acreage be increased nine times, the returns from this source should be increased proportionately to about $7,000.00; the increase, amounting to $6,000.00, should cover the increased cost of maintenance and operation, incident to carrying a greater supply of water and, as well, justify a considerable expense at this time in renewals and repairs.

There appears to be no doubt that the water can be made available at all times if sufficient improvement is made in the physical system carrying the water from the point of diversion to consumers. However, it is only reasonable that the consumers give some tangible assurance that they will use and pay for water somewhat in accordance with the signed statements on file with the Commission. It has been found in localities near and similar to that served by this company, that one miner's inch for seven acres is a reasonable duty of water. It seems reasonable in this case that the minimum amount which any consumer might be expected to use would be one miner's inch to ten acres, and that this should be used through a season of 120 days, or, for each ten acres, 120 miner's inch days. This, at the established rate of 15 cents per miner's inch day, amounts to $18.00. I will recommend that water shall be delivered at the established rate, but that there should be made a minimum payment of $1.80 per acre in advance of use, and that for this payment the company shall be considered bound to deliver at least that minimum amount. The company should, however, be allowed and authorized to rotate the supply between users, giving due notice of the time when water will be delivered and the accumulated head then be supplied that the consumer will be entitled to for the payment made and, in addition, such excess water as he desired and had applied for.

The loss of water by seepage in its main North Bloomfield canal from Bowman Lake to Graniteville was shown to be over 70 per cent with the canal at the head carrying its reasonable capacity, whereas it should not have lost, if in proper condition, more than 25 per cent. Should the canal have lost only 50 per cent, there would be available at Graniteville for delivery, instead of 550 miner's inches, 950 miner's inches, or a saving over the present condition, of 400 miner's inches. Allowing a further loss in distribution to consumers along San Juan Ridge of 50 per cent of the amount so saved, would still leave available, over the amount that the company is now able to deliver, an additional 200 miner's inches, sufficient to serve the lands which the consumers have stated they will irrigate in 1915 at the rate of one miner's inch to two acres. It appears there would also then be a sufficient amount to supply the

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St. Gothard Mining Company at all times with 200 miner's inches, and still leave a fully sufficient supply available for irrigators.

I will recommend that the defendant company be required to so repair and renew the ditch system, that no more than 50 per cent of the water diverted shall be lost between Bowman Lake and Graniteville, and that the company shall be able at all times, excepting in case of emergency, to deliver 100 miner's inches of water to consumers along San Juan Ridge, provided that payment be made in advance on rates, at the rate of $1.80 per acre, for the irrigation of at least 400 acres during the year 1915.

I will also recommend that the company be required to prepare definite rules and regulations for control of all affairs between the utility and the consumers, which shall be submitted to the Commission and meet with its approval before publication.

It was determined, during the hearing in this matter, that there had been definite discrimination in the distribution of water in favor of the several mines which were supplied with a part of the amount available. Whether irrigation consumers received any supply or not, the mines were always accommodated. This being a public utility, it is my opinion that there can be no preferential service to the mining interests. Should there be any preferential service, it should be granted the class of use that will suffer the greatest loss should service be discontinued, and this, in my belief, is assuredly true of the use for irrigation as compared with that for the mining of gold. Also, it is to the interest of the commonwealth that foodstuffs be provided rather than that mines be continued in operation.

I submit the following order:

ORDER.

C. H. Jones et al. having made complaint against the Northern Water and Power Company, alleging improper practices and failure to deliver water for irrigation at proper times and in proper amounts, and praying that this Commission order the said corporation to furnish water as needed to complainants and other patrons, and a public hearing having been held, and the Commission being fully apprised in the premises,

It is hereby found as a fact by the Railroad Commission of the State of California that the condition of the water transmitting and distributing system of this company is inefficient; that all or some of the complainants have at times not received a sufficient supply of water at the proper times to enable them to raise paying crops; that the practices of the company have not been uniformly such as to properly safeguard the supply of water being carried to consumers; and that there has been discrimination in the distribution of the water supply available; and basing its order on the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

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It is hereby ordered, by the Railroad Commission of the State of California, that the Northern Water and Power Company take such action as may be necessary to enable it to deliver at a point on its canal near Graniteville, 50 per cent of a full supply taken into the head of its canal, and to be able at all times, excepting in case of emergency, to deliver to consumers along San Juan Ridge 100 miner's inches of water.

It is further ordered that the Northern Water and Power Company, within thirty days from the date of this decision, submit to the Commission a statement of what they plan to do to fulfill this order, and that the company make report monthly to the Commission, setting forth in detail the improvements that they have made upon the system.

It is further ordered that the expenditure of any amount into capital account shall not be required of the company unless a sum equal in the aggregate to 400 acres at $1.80 be paid in advance on rates or satisfactorily guaranteed on or before March 1, 1915.

It is further ordered that the company, within thirty days after the date hereof, draft and transmit to the Commission for its approval definite rules and regulations for the conduct of affairs between itself and its consumers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of December, 1914.

DECISION No. 2024.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY FOR AUTHORITY TO ISSUE ITS FIRST MORTGAGE 5 PER CENT SINKING FUND FORTY-YEAR GOLD BONDS TO AN AMOUNT OF THE FACE VALUE OF THE PRINCIPAL OF SUCH BONDS SUFFICIENT AT THE PRICE AT WHICH SAID BONDS MAY BE SOLD TO NET THREE MILLION NINE HUNDRED AND SEVENTY-ONE THOUSAND SEVEN HUNDRED AND THIRTY-ONE DOLLARS.

Application No. 357.

Decided December 22, 1914.

REPORT OF THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

This Commission having, in its third supplemental order in this proceeding, authorized applicant to pledge 225 of its first mortgage 5 per cent sinking fund forty-year gold bonds of the aggregate face value of $225,000.00 as collateral for a note to be issued by applicant to Old Colony Trust Company of Boston, Massachusetts, said note to be for a

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loan of $150,000.00 to be issued for a term not exceeding one year from the date of said order and at a rate of interest not to exceed 6 per cent per annum, and the money derived from said note to be applied to the purposes specified in this Commission's order heretofore made in this proceeding on September 3, 1913; and it now appearing that applicant desires to issue to Old Colony Trust Company of Boston, Massachusetts, a renewal note for a period of six months from November 23, 1914, under the same conditions and with the same collateral provided in said third supplemental order,

It is hereby ordered that Great Western Power Company be and it is hereby authorized to issue said renewal note to Old Colony Trust Company of Boston, Massachusetts.

It is further ordered that the authority granted applicant to issue bonds in accordance with the terms of this Commission's orders in this proceeding made on March 11, 1913, May 2, 1913, and September 3, 1913, be and the same is hereby extended to and including June 30, 1915.

Dated at San Francisco, California, this 22d day of December, 1914.

DECISION NO. 2025.

IN THE MATTER OF THE APPLICATION OF VALLEY PIPE LINE COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1246.

Decided December 22, 1914.

Applicant authorized to issue 3,750 shares of its capital stock of the par value of $100.00 per share, to be sold at not less than 80, proceeds to be used in connection with the construction of its pipe line from its oil fields to Martinez, such stock being a portion of the stock heretofore authorized for this purpose.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

THIRD SUPPLEMENTAL ORDER.

This Commission, on September 19, 1914, in Decision No. 1805 in the above entitled matter, having authorized the applicant herein to issue 53,184 shares of capital stock of the par value of $100.00 per share and to use the proceeds in the construction of a pipe line from the property of the California Oil Fields, Limited, near Coalinga, in Fresno County, to Martinez, on San Francisco Bay, in Contra Costa County, a distance of approximately 175 miles; and this Commission in said order having provided that said stock should not be issued until applicant filed detailed estimates of cost and had received supplemental orders from this Commission for such issue;

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And this Commission on September 19th having authorized the issue of 650 shares of said stock, and this Commission on November 5, 1914, having authorized an additional issue of 2,811¼ shares of said stock, and the applicant herein now having applied to this Commission for authority to issue 3,750 shares of said stock, and the applicant having submitted estimates and statements of cost as required by this Commission,

It is hereby ordered that Valley Pipe Line Company be granted authority and it is hereby granted authority to issue 3,750 shares of its capital stock of the par value of $100.00 per share, said stock being a part of the 53,184 shares of capital stock of this applicant heretofore authorized to be issued under certain conditions therein specified in this Commission's Decision No. 1805.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The stock herein authorized to be issued shall be issued to Anglo-Saxon Petroleum Company at a price that shall yield the applicant not less than $80.00 per share.

(2) The proceeds from the sale of the stock herein authorized to be issued shall be applied upon the cost of that certain pipe line which the applicant has under construction between the property of the California Oil Fields, Limited, near Coalinga, Fresno County, to Martinez, on San Francisco Bay, in Contra Costa County, in accordance with the plans and specifications filed with this Commission in connection with the application herein to which reference is hereby made.

(3) Valley Pipe Line Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted shall apply to such stock as shall have been issued on or before December 20, 1915.

The foregoing third supplemental order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of December, 1914.

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DECISION NO. 2026.

IN THE MATTER OF THE APPLICATION OF THE PEOPLE OF THE STATE OF CALIFORNIA ON RELATION OF THE DEPARTMENT OF ENGINEERING FOR PERMISSION TO CONSTRUCT A STATE HIGHWAY CROSSING UNDER THE TRACK OF SOUTHERN PACIFIC COMPANY AND CENTRAL PACIFIC RAILWAY COMPANY NEAR ANDORA, PLACER COUNTY, CALIFORNIA.

Application No. 1061.

Decided December 24, 1914.

State Highway Commission desiring to construct an undergrade crossing under the tracks of Southern Pacific Company near Roseville and a dispute arising as to the method of construction and division of cost of such crossing, *held*, Said crossing shall be constructed at an angle of 45 degrees with the tracks of the railway company and provide for two tracks, the Southern Pacific Company to pay one half the estimated cost of a right-angled crossing plus one fourth the additional cost of the skew crossing, the Highway Commission to pay the balance of cost.

George D. Squires, for Southern Pacific Company.

C. C. Carleton, for State Highway Commission.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application made by the State Highway Commission for permission to construct an undergrade crossing at a point about a mile north of Roseville, to replace a crossing at present in existence about four hundred (400) feet south of the proposed crossing. There was no question raised at the hearing regarding the advisability of this undergrade crossing and there is no question in my mind but that advantage should be taken of the physical characteristics of the country and the grades separated at this point. Some attempt had been previously made to adjust this matter informally, but there existed a pronounced difference of opinion between the railroad company and the Highway Commission regarding the character of the proposed undercrossing and the division of expense of the same between the two parties concerned.

The original plan made for this crossing by the Highway Commission was for a right angle subway, but after a study of different types of construction, a forty-five (45) degree skew subway was adopted as being better suited for a highway of the character of this one, and the application was made for a crossing at that angle.

There are two features to be considered: First, the angle at which this crossing is to be made; second, the matter of the division of expense between the parties interested.

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Regarding the first: This state highway will be the main road running from Sacramento to the north. It will be very much traveled and the crossing should be built of a type which will serve the best interests of all concerned. Once built, it will remain for very many years, and there is no question in my mind but what the skew crossing, in comparison with a crossing at right angles with the track, is much more desirable and much the better type of construction as far as the highway is concerned. It is true that as far as the Southern Pacific Company, alone, is concerned, a right angle crossing would answer for the requirements of the railway. But the difference in cost as between a cheaper right angle crossing and one which will be satisfactory to both the railroad company and the state is comparatively small, and it is my opinion that the skew crossing is by far the better investment.

Estimates made by the Highway Commission, covering these crossings, show about $12,500.00 to be the cost of a right angle crossing and about $15,700.00 to be the cost of the crossing skewed at an angle of 45 degrees with the track. These figures are the estimates submitted for a double track substructure and single track bridge plus the cost of additional steel for a second track. The estimate of the Southern Pacific Company for the right angle crossing is $10,110.00 and for the skew crossing, $16,670.00. There is no considerable difference between the two estimates. They seem to be based upon about the same sort of construction and for the purpose of this opinion I will consider the right angle crossing as costing $11,500.00 and the skew crossing as costing $16,000.00.

These figures show there is but $4,500.00 difference between the cost of the skew crossing and the right angle crossing.

I find, therefore, that the type of construction to be adopted should be that of the skew crossing.

It was testified by Southern Pacific Company witnesses, and admitted as reasonable by the Highway Commission, that a second track would in a short time be built at this point and that the subway should be built to care for this future construction, and the cost should be considered in this connection. The approximate estimates, as noted above, are based upon a double track structure, and I think it proper to consider the cost of the second track bridge as being part of the cost of the subway.

There now remains to be considered the division of expense between the two parties at interest. When the plans contemplated a right angle crossing the Southern Pacific Company expressed its willingness to bear one half ($\frac{1}{2}$) of the total cost. It feels, however, that since in its opinion the right angle crossing will serve the purpose of grade separation as well as the skew crossing, it should not be called upon to

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bear more than one half (½) of the estimated cost of such right angle crossing.

No hard and fast rule can be made in cases of this kind. In this instance the construction of a subway will do away with the grade crossing at present in use, to the south of this proposed crossing, and the abolition of this grade crossing considered alone would probably be worth to the Southern Pacific Company half the entire cost of this proposed skew subway. It is my opinion, however, that it would not be fair to assess to the railway company an even one half (½) of such additional expense as will be incurred principally for the benefit of the state highway. And this additional expense is represented by the difference in cost between the right angle and the skew crossing.

I find that it would be equitable for the Southern Pacific Company to pay, in this case, one half (½) the estimated cost of the right angle crossing and one quarter (¼) of the difference between the estimated cost of the right angle crossing and the actual cost of the skew crossing. The Highway Commission, of course, will be required to pay the difference, and this I will recommend.

I recommend the following form of order:

ORDER.

People of the State of California on relation of the department of engineering, hereinafter called the State Highway Commission, having on April 1, 1914, made application to the Commission for permission to construct its highway under the track of the Southern Pacific Company, a corporation, and Central Pacific Railway Company, a corporation, near Andora, about one (1) mile northerly from the city limits of Roseville, Placer County, California, shown more particularly on the map and profile accompanying the application; and a public hearing having been held, at which all interested parties were represented; and it appearing that this application should be granted under certain conditions hereinafter specified,

It is hereby ordered that the State Highway Commission be and the same is hereby authorized to construct a state highway under the track of the Southern Pacific Company, at or near the point shown on the map attached to the application, subject to the following conditions, and not otherwise:

(1) This crossing shall be a subway or undergrade crossing constructed at the point shown on the map attached to the application, subject, however, to a slight variation either north or south along the track, as later surveys and estimates shall determine the most economical location.

(2) Said crossing shall be constructed at an angle of forty-five (45) degrees with the track of the Southern Pacific Company, but

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bridge seats for girders of the bridge shall be constructed to form an angle of ninety (90) degrees with the track of Southern Pacific Company.

(3) Said crossing shall be constructed so that all clearances shall conform to the Commission's General Order No. 26.

(4) Said crossing shall provide for two (2) tracks for the Southern Pacific Company, and the expense of providing for the second track shall be considered as part of the cost of the subway.

(5) The cost of the subway or undergrade crossing shall be borne as follows: Southern Pacific Company and the State Highway Commission shall each pay five thousand seven hundred and fifty dollars ($5,750.00), or one half (½) of an estimated cost of a right angled crossing of eleven thousand five hundred dollars ($11,500.00), and all costs in excess of this estimated cost of $11,500.00 shall be borne one quarter (¼) by the Southern Pacific Company and three quarters (¾) by the State Highway Commission.

(6) The present grade crossing about four hundred (400) feet south of the proposed crossing shall be legally closed and abandoned as a public highway crossing.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of December, 1914.

DECISION No. 2027.

IN THE MATTER OF THE APPLICATION OF HALF MOON BAY LIGHT AND POWER COMPANY FOR PERMISSION TO INCREASE ITS RATES FOR SERVICE SUPPLIED TO E. B. & A. L. STONE COMPANY.

Application No. 429.

Decided December 24, 1914.

Application of the E. B. & A. L. Stone Company for a rehearing in the above entitled matter, denied.

REPORT OF THE COMMISSION.

THELEN and LOVELAND, *Commissioners.*

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OPINION ON APPLICATION FOR REHEARING.

E. B. & A. L. Stone Company has filed an application for a rehearing in this proceeding. In its application for rehearing E. B. & A. L. Stone Company claims that the order of the Commission made in this proceeding on November 27, 1914, fixing the rates at which Half Moon Bay Light and Power Company shall charge for power supplied to E. B. & A. L. Stone Company is unlawful for various reasons. E. B. & A. L. Stone Company states as one of its grounds for seeking a rehearing that the rates fixed by the Commission are for the service of power for the period of one year, and that no rates are fixed for the service of power for a less period. The Stone Company evidently has in mind the demand charges fixed by the Commission upon a basis of horsepower of connected load per year. These charges, however, can of course be prorated into periods for less than one year.

The Stone Company also claims that the transformer loss used in computing the rates fixed by the Commission is based upon tests made by the Power Company when two transformers were installed at the Pilarcitos plant, which were not considered by the parties actually testing the transformer loss at this point. The Stone Company is mistaken in this claim. The transformer loss used by the Commission is not that shown by these tests, but was determined after a careful analysis of all the testimony and exhibits introduced in this proceeding.

We do not believe it is necessary to comment upon the other grounds upon which the Stone Company bases its application for rehearing, and we accordingly recommended that the application for rehearing be denied.

ORDER.

E. B. & A. L. Stone Company having applied to this Commission for a rehearing in this proceeding, and the Commission being of the opinion that no good cause exists why a rehearing should be had,

It is hereby ordered that said application for rehearing be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of December, 1914.

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DECISION NO. 2028.

IN THE MATTER OF THE APPLICATION OF MT. TAMALPAIS AND MUIR WOODS RAILWAY FOR AN ORDER AUTHORIZING IT TO PERMANENTLY ABANDON ITS LOCAL SERVICE FROM MILL VALLEY TO LEE STREET, AND FOR AN ORDER AUTHORIZING IT TO ABANDON THE OPERATION OF ITS MUIR WOODS BRANCH UNTIL MARCH 1, 1915.

Application No. 1384.

Decided December 24, 1914.

Applicant having previously applied for permission to discontinue its local service between Mill Valley terminus and Lee street station, which application is later amended to request permission to increase its rates between these points from 5 cents to 10 cents, and it appearing that such increase is justified, application granted, provided that applicant shall connect with all trains of the Northwestern Pacific Railroad Company, with certain named exceptions.

William F. Thomas, for Applicant.

C. K. Cushing, for certain residents of Mill Valley.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

On October 24, 1914, Mt. Tamalpais and Muir Woods Railway filed an application for permission to discontinue operating local trains in the town of Mill Valley between the terminus of its line and Lee street station and between "Bowknot" station and Muir Woods during the months of November and December, 1914, and February, 1915.

By order of this Commission issued November 19, 1914, the applicant was authorized to discontinue the service between Bowknot station and Muir Woods until March 1, 1915, and the matter of discontinuing the local service in the town of Mill Valley was left for future determination. Thereafter, on December 19, 1914, a supplemental application was filed by the Mt. Tamalpais and Muir Woods Railway, whereby its original application to discontinue its local service in Mill Valley was modified and authority was asked to increase its fares for that service.

At present a fare of 5 cents is charged for the transportation of persons between the terminus of the applicant's line and Lee street station in Mill Valley, which fare it now seeks to cancel and in lieu thereof establish the following:

One way fare	10 cents
Round trip fare	15 cents
Four-ride commutation fare	25 cents
Eight-ride commutation fare for children under twelve years of age	25 cents

In justification of the proposed increases the applicant alleges that its local service in Mill Valley between its terminus and Lee street station is now and has been unprofitable and that the revenues therefrom have been insufficient to meet actual transportation expenses. At

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the hearing the representatives of a number of the regular patrons of this local service stated that on the condition that a Sunday train service as well as the proposed week day service be maintained to connect with the trains of the Northwestern Pacific Railroad in Mill Valley, the proposed increases were generally approved by them. But one patron of this local line appeared in opposition to the granting of the application. In view, however, of the general approval of the proposed increases by most of the regular patrons of this service and of the apparent insufficiency of the present revenues to meet the operating expenses of these local trains, I am of the opinion that the application should be granted upon the condition that the applicant maintain the service proposed in its application, namely, a local service connecting with all trains of the Northwestern Pacific Railroad Company at Mill Valley, except the train of the Northwestern Pacific Railroad Company departing from San Francisco at 11:45 a.m. and arriving at Mill Valley at 12:35 p.m. and that on the trips from and including 7:10 a.m. to and including 9:40 a.m. and from and including 5:15 p.m. to and including 6:45 p.m., it operate a steam train service.

I recommend the following order:

ORDER.

Mt. Tamalpais and Muir Woods Railway having applied for permission to increase its fares for the transportation of passengers between its terminus and Lee street station in Mill Valley, and a hearing having been held upon said application, and the Commission finding that the increases are justified,

It is hereby ordered that Mt. Tamalpais and Muir Woods Railway be and it is hereby authorized to establish the following fares for the transportation of passengers between its terminus and Lee street station in Mill Valley:

One way fare	10 cents
Round trip fare	15 cents
Four-ride commutation fare	25 cents
Eight-ride commutation fare for children under twelve years of age	25 cents

Upon the condition that it maintain the service proposed in its application, namely, a local service connecting with all trains of the Northwestern Pacific Railroad Company at Mill Valley except the train of the Northwestern Pacific Railroad Company departing from San Francisco at 11:45 a.m. and arriving at Mill Valley at 12:35 p.m., and that on the trips from and including 7:10 a.m. to and including 9:40 a.m. and from and including 5:15 p.m. to and including 6:45 p.m., it operate a steam train service.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of December, 1914.

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Decision No. 2029.

IN THE MATTER OF THE APPLICATION OF THE WHITTIER HOME TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE EXTENSION OF SERVICE.

Application No. 1334.

Decided December 28, 1914.

Applicant applies for a certificate of public convenience and necessity authorizing the exercise of rights under a franchise granted by the county of Los Angeles permitting the construction and operation of a telephone system in certain territory known as North Whittier Heights, Montebello and Protrero Heights, the granting of such application being opposed by Covina Home Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company, and it appearing the applicant herein is physically able to render more efficient service to the greater number of residents than either of protestants, application granted, provided that applicant shall not extend its lines further into the Montebello territory, continuing such lines only as are at present in operation.

A. Wardman, for Applicant.

Arthur Wright, for Covina Home Telephone and Telegraph Company.

A. B. Shaw, and *John G. Mott,* for The Pacific Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Whittier Home Telephone and Telegraph Company for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise heretofore granted by the county of Los Angeles for the installation and operation of a telephone system in territory in Los Angeles County which is known as North Whittier Heights, Montebello and Protrero Heights.

As respects the North Whittier Heights territory, Covina Home Telephone and Telegraph Company objects to the granting of the application, and as to the Montebello territory The Pacific Telephone and Telegraph Company objects.

North Whittier Heights is a tract of land recently cut up into lots and is located about three miles from the town of Whittier, and about a mile and one half from the town of Puente.

Covina Home Telephone and Telegraph Company has extended its lines to Puente and is ready and willing to serve with telephone service the territory here involved. It strenuously objects to Whittier Home Telephone and Telegraph Company coming into this territory.

Whittier Home Telephone and Telegraph Company operates principally in and about the town of Whittier and it proposes to extend its lines into this new territory, and claims that it will satisfy a pronounced demand for service if it be allowed to do this.

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There is not here involved the question of whether an invading company shall be allowed to enter the territory of another, thus duplicating an existing telephone system, but rather we have presented rival claims of two companies to a given territory, neither of which have really entered this territory with service. It is true that the Covina Company has extended its lines to the town of Puente, a mile and one half from this tract, and is anxious and willing to get customers in this tract, but it can not be said that it now has a plant installed and is serving this territory. There are not over twenty-five possible consumers located in the disputed territory, but the evidence shows that this tract has been promoted largely through the efforts of residents of Whittier and there seems to be a very active sentiment on the part of the Whittier people in favor of the Whittier Company being allowed to enter this territory.

There was considerable evidence and much argument as to whether this tract was really economically and in a business sense connected with Whittier, Covina, or Puente, and one of the questions that the Commission was asked to decide was which of these towns was topographically most connected with this tract.

The Covina Company urges upon our attention an order heretofore made by the Commission authorizing it to issue stocks and bonds for the purpose of building a plant in Puente, the authorization providing for the expenditure of $10,000.00 for such plant. This plant has since been built and we are asked to refuse the Whittier Company permission to come into the tract a mile and a half from the town of Puente, as the Commission has by its authorization encouraged the Covina Company to make the above expenditure, and in effect this company has been led to believe that it will be protected in serving this territory.

This latter contention may be disposed of at once, as even conceding that the Commission's action in permitting the issuance of stocks and bonds can be considered an indication of the Commission's willingness to protect the company in serving a given community, still the authorization as to the expenditure in Puente can not be held to indicate a willingness to protect this company in serving an unlimited or indefinite territory. Coupled with this is the fact that the Covina Company has not actually extended into this tract.

It is conceded that the service offered this territory by the Covina and the Whittier companies is different, at least in this respect, that the Whittier Company offers a service for a local rate to the town of Whittier. This, of course, is not done by the Covina Company, for if the Covina Company's service is used, Whittier could only be reached through a long distance service which would involve an additional rate.

The Covina Company urges that even though this service to Whittier at local rates is offered, the offer is economically unsound, and that

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unless telephone companies in Southern California are checked in their present course of providing telephone service over long distance at local rates, bankruptcy will result, or at least serious financial difficulties. We are further urged to consider that the Commission ought to lay down some rule or standard upon which to base a distinction between long distance and local service, so that for a given distance long distance service should be provided with a proper rate therefor, and for other given distances local service should be provided, thus drawing a proper distinction between long distance and local service.

Before any rules could be laid down for this purpose, however, a very thorough inquiry would have to be made and there has not been sufficient evidence offered in this case upon which to act in this very important matter of distinguishing between long distance and local service.

If this could be done at this time, I believe much difficulty would be avoided and a more equitable spreading of the burden of paying for telephone service would be brought about at once. But it must not be overlooked that we are here confronted with an offer from a responsible telephone company to give local service at local rates to this territory, and it can not be concluded from the evidence in this case that the rates here proposed are of necessity unremunerative, and that the present consumers would have to bear an undue burden in order to support this new service.

Really the objection to the granting of this application must be based on the belief that the extension of this local Whittier service to this territory will result in a loss of prospective long distance tolls, because if the Whittier Company is kept out and the Covina Company covers this territory with its service the subscribers in this tract will have to use the long distance in order to reach Whittier.

I am not impressed with the contention that the difference between either the service or rates of local and long distance telephoning will determine whether Whittier, Covina or Puente is the city most closely tied to this community in a business way. Surely residents of this tract desiring to maintain business connections with Whittier will do so, regardless of a comparatively slight increase in telephone toll. The difference between long distance and local rates for business communications between Whittier and this tract will not be sufficient to direct the stream of business. There are so many other potent and influential factors influencing the course of this business that this element would be inconsiderable.

I believe, therefore, that where the Whittier Company offers to enter this territory not now actually occupied by any other telephone company and to produce to subscribers there a service connected with the Whittier exchange at the local rates that it should be allowed to

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do so, and, of course, it would follow that if the Covina Company can find subscribers of this same tract willing to take its service connected directly with the towns of Puente and Covina that it also should be allowed to serve this territory.

It must be understood that what has heretofore been said does not in any way conflict with the doctrine heretofore laid down by this Commission that where a public utility company is properly serving a given territory at reasonable rates, another company offering a like service will not be allowed to enter and compete. The distinction here made is that the service offered is a different service at lower rates than that which is offered by the Covina Company, and, furthermore, it must be remembered that the Covina Company does not now actually serve this territory.

Applicant is now serving a part of the town of Montebello, but it has not had a franchise permitting it so to do. It has now obtained such a franchise and we are asked to authorize the exercise of the rights and privileges thereunder. The Pacific Telephone and Telegraph Company objects to applicant being allowed to extend its service to new subscribers or new territory within the town of Montebello—in other words, to increase its business in this territory. The Pacific Telephone and Telegraph Company now serves the major portion of this town with its telephone service, applicant only having a few phones in use. Applicant was willing that its business be confined to present subscribers and it was stated that it was not its intention to compete with The Pacific Telephone and Telegraph Company in the town of Montebello, and that its principal purpose was to legalize its present business in that town by obtaining the franchise and the permission of this Commission to exercise rights and privileges thereunder.

I recommend that this application be granted with the proviso that as to the town of Montebello the rights and privileges under the franchise obtained by applicant from the county of Los Angeles shall be limited to the present business being done by applicant in said town.

Herewith a form of order:

ORDER.

Application having been made by Whittier Home Telephone and Telegraph Company for a certificate of public convenience and necessity, and a public hearing having been held, and it appearing to the Commission that said application should be granted under the conditions hereinafter set out,

It is hereby ordered and declared, by the Railroad Commission of the State of California, that public convenience and necessity require and will require the exercise of rights and privileges by Whittier Home Telephone and Telegraph Company under that certain franchise granted said company by the supervisors of Los Angeles County, which

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said franchise is embodied in an ordinance numbered 371, a copy of which is on file herein, reference to which is hereby made.

This order is made upon the condition that the rights and privileges under said franchise shall be exercised in the town of Montebello only to the extent of permitting Whittier Home Telephone and Telegraph Company to continue to serve its present subscribers in said town with a telephone service.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 28th day of December, 1914.

DECISION NO. 2030.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE, SELL AND DELIVER TO THE AMOUNT OF SEVEN HUNDRED AND EIGHTY-FOUR THOUSAND DOLLARS, ITS BONDS BEARING INTEREST AT THE RATE OF FIVE PER CENT PER ANNUM, DUE NOVEMBER 1, 1939.

Application No. 1405.

Decided December 30, 1914.

Supplemental order permitting applicant to issue $518,000.00 face value of bonds, such bonds being a portion of bonds heretofore authorized, to be sold at not less than 87½, proceeds to be used to refund a number of outstanding notes of applicant.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, in the order heretofore made in this proceeding on November 10, 1914, authorized applicant to issue $784,000.00 face value of its 5 per cent bonds due November 1, 1939, upon certain conditions, one of which was that

> "$518,000.00 face value of said bonds, being numbers 18,139 to 18,656, both numbers inclusive, shall not be issued nor disposed of until the further order of this Commission, which order shall specify the minimum price at which said bonds may be sold and the specific application of the proceeds derived therefrom. Generally the proceeds from the sale of said bonds shall be used for the purpose of reimbursing the treasury of applicant for expenditures made in additions and betterments to the plant of applicant, which additions and betterments are set out in detail in an exhibit filed with the application herein, which exhibit is designated 'Southern California Edison Company Statement Construction Expenditures January 1 to September 30, 1914' ";

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And Southern California Edison Company having filed its supplemental application asking authority to issue said $518,000.00 face value of said bonds at 87½ per cent of the face value thereof and accrued interest thereon, the proceeds derived from such issue to be used to pay certain notes hereinafter mentioned, the moneys derived from said notes having been used by applicant to reimburse its treasury for expenditures actually made by applicant for additions to and betterments of its plants, properties and equipment, which additions and betterments are set forth in detail in an exhibit filed herein entitled "Southern California Edison Company Statement Construction Expenditures January 1 to September 30, 1914," and it appearing to this Commission that this supplemental application should be granted,

It is hereby ordered that Southern California Edison Company be and it is hereby authorized to issue $518,000.00 face value of its 5 per cent bonds, being numbered 18,139 to 18,656, both numbers inclusive, upon the following conditions, and not otherwise, to wit:

1. Said bonds shall be issued so as to net applicant 87½ per cent of the face value thereof.

2. The proceeds derived from said bonds shall be used to pay the following notes of applicant:

Favor of—	Dated	Amount	Due
General Electric Company	Sept. 18, 1914	$13,000 00	Jan. 18, 1915
General Electric Company	Sept. 20, 1914	20,000 00	Jan. 20, 1915
Edison Lamp Works of General Electric Company	Sept. 20, 1914	5,000 00	Jan. 20, 1915
Ourselves	July 21, 1914	75,000 00	Jan. 21, 1915
Ourselves	July 21, 1914	65,000 00	Jan. 21, 1915
Ourselves	July 21, 1914	10,000 00	Jan. 21, 1915
Ourselves	July 21, 1914	70,000 00	Jan. 21, 1915
Ourselves	June 25, 1914	300,000 00	Jan. 25, 1915
Total January		$558,000 00	

3. Said company shall keep separate, true and accurate accounts showing the receipts and application in detail of the proceeds from the sale of the bonds herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of bonds during the preceding month, the terms and conditions of such sale, the moneys derived therefrom and the use and application of such moneys, all as provided in this Commission's General Order No. 24.

4. The authority hereby given to issue bonds shall apply only to bonds issued prior to May 15, 1915.

Dated at San Francisco, California, this 30th day of December, 1914.

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DECISION NO. 2031.

MT. KONOCTI LIGHT AND POWER CORPORATION

vs.

JAMES A. GUNN, JR.

Case No. 641.

Decided December 30, 1914.

Complainant operating an electric distributing system, alleges the invasion by defendant of territory already served by complainant and accordingly petitions the Commission to compel defendant to withdraw from such territory and discontinue the construction of its distributing system serving the village of Finley.

Held. That though an electrical utility erect a number of poles and string wires thereon, such action can not be construed as actually serving surrounding territory, and considering that defendant had erected a number of poles and strung wires thereon such wires were neither connected with a source of supply nor with prospective consumers, and such action can not be considered as serving such territory under the Public Utilities Act. Defendant accordingly directed to withdraw from territory in question.

C. M. Crawford, for Complainant.

James A. Gunn, Jr., in propria persona.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The complaint in this case is directed against James A. Gunn, Jr., and alleges in effect that complainant, Mt. Konocti Light and Power Company, is a corporation engaged in the business of transmitting and distributing electric energy; that for some two years last past complainant has been and is now distributing and selling electric energy in and adjacent to the village of Finley, Lake County, and within a radius of three quarters of a mile from the Finley post office; that complainant is ready and willing to supply electric energy to all persons within that territory desiring service; that defendant is also engaged in the business of generating and distributing electric energy in certain portions of Lake County; that defendant, who has not heretofore served any person within three quarters of a mile from the village of Finley, is engaged in building a line into said territory with the intention of entering into competition with defendant in the sale of said electric energy. Complainant requests that the Commission make an order restraining defendant from further construction of his said line within said territory now served by complainant.

Defendant in his answer denies all of the material allegations of the complaint and sets up as a fact that prior to the time when complainant first commenced to deliver electric energy in the vicinity of Finley he had constructed a line in said village and had begun to serve the inhabitants thereof.

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From the evidence introduced at the hearing it appears that during the summer of 1911, the Mt. Konocti Light and Power Company, in accordance with the terms of its franchise, constructed a line from Hopland, in Mendocino County, at which point complainant receives electric energy from the transmission system of the Snow Mountain Water and Power Company, to Lakeport, in Lake County. In September, 1912, complainant started construction on a power line from Lakeport to Kelseyville by way of Finley, which line was placed in operation early in October of that year, at which time there was no other energized power lines in the vicinity of Finley. During September, 1912, James A. Gunn, Jr., defendant in this case, erected in Finley five or six poles, with crossarms and insulators attached, and suspended thereon several spans of insulated wire. Defendant also at the same time distributed several additional poles and dug a few holes at or near that place. At the time these first few poles were erected and distributed, and for about one year thereafter, defendant had no means of furnishing electric service to the public and it was not until some time in July, 1914, that defendant began actual service to his single patron in or adjacent to Finley. On March 7, 1913, complainant began to deliver electric energy to consumers and at the present time is serving some six or seven persons within three quarters of a mile from the Finley post office.

Under the circumstances there can be no question but that complainant was actually serving the public in the territory involved in this case with electric energy for more than one year prior to the time when defendant completed his line to Finley and for about six months before defendant was prepared to serve the public with electric energy at any point in Lake County or elsewhere. The mere fact that defendant began the construction of his plant believing that he could build his lines indiscriminately throughout Lake County does not justify needless duplication of equipment and other evils of unwarranted competition, nor can the fact that defendant may have erected a few poles here and there be construed as giving him any prior or additional right to serve in a territory from which he would otherwise be excluded.

Defendant has constructed on Kelsey Creek a small hydroelectric plant having a rated capacity of 200 kilowatts and claims that this plant was installed with the intention of serving the present needs of the whole of Lake County in accordance with the terms of his franchise. While I do not know the actual output capacity of defendant's plant nor the seasonal variation of that capacity due to the stream flow of Kelsey Creek, I am unwilling to believe that the entire rated capacity of defendant's plant, even if available at all times, is sufficient to supply more than a very small portion of the present needs of Lake County for lighting and power alone and disregarding entirely defendant's plans

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to supply water for irrigation purposes, a portion of which, at least, it appears is to be made available by pumping. While I have no doubt that defendant's generating plant has a capacity sufficient to supply considerably more power than is demanded by the business so far developed, it must be admitted that defendant's efforts have been largely directed toward securing business in competitive territory rather than toward furnishing electric energy to those portions of the county and to those communities which are at present wholly without such service.

Defendant's contention that, because he procured a franchise from the board of supervisors of Lake County to construct and maintain electric power lines over and along the public roads of that county prior to the effective date of the Public Utilities Act, he should be permitted to construct his lines in any portion of the county including the territory served by another public utility, is wholly untenable, and defendant's claim that by merely erecting a few isolated poles and several hundred feet of wire in the village of Finley he had begun to serve that territory, within the meaning of the Public Utilities Act, is controverted by the fact that these poles and wires were not connected with his lines and were not used in connection with the distribution of electric energy for almost two years after they had first been placed in position. In this connection I desire to call attention to the fact that electric service consists not only of the possession of the necessary facilities but is an accomplished fact only when these facilities are used in connection with the actual delivery of electric energy to any person who may apply for the service. In cases of this kind the Commission will not be misled by mere pretense but will carefully look beyond the fact that a certain work may have been begun and inquire as to whether or not such work was necessary to serve the public and whether it can be considered as work commenced in good faith and carried on with reasonable diligence.

In view of all the evidence introduced in this case, I find as a fact that the territory within a radius of three quarters of a mile from the present Finley post office in Lake County was, on July 11, 1914, and for more than one year prior to that time, served with electric energy only by Mt. Konocti Light and Power Company, and that as long as complainant supplies electric energy to all bona fide applicants for service within said territory at reasonable rates, and under reasonable regulations, the present or future public convenience and necessity does not and will not require the construction or installation of any poles, wires or facilities whatsoever by James A. Gunn, Jr., defendant in this case, in said territory, nor can any lasting benefit accrue to the public by permitting defendant to enter into competition with complainant in the distribution and sale of electric energy in the vicinity of Finley. I further find as a fact that defendant, in connecting his lines and furnishing electric service in the territory above mentioned, has not complied with the provisions of section 50, Public Utilities Act.

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Accordingly I recommend that defendant be restrained from constructing, maintaining or operating lines, service or facilities of any nature whatsoever, for the distribution, delivery or sale of electric energy, within three quarters of a mile in any direction from the present location of the said United States post office in the village of Finley.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the same having been submitted and being now ready for decision, the Commission hereby finds as a fact that, under the circumstances of this particular case, James A. Gunn, Jr., should be restrained from constructing, maintaining or operating lines, services or facilities of any nature whatsoever, used or to be used, for or in connection with the distribution, delivery or sale of electric energy within three quarters of a mile in any direction from the present location of the United States post office in the village of Finley, Lake County, California.

Basing its conclusions and order upon the foregoing findings of fact and on the other findings of fact which are contained in the opinion which precedes this order,

It is hereby ordered that James A. Gunn, Jr., be and he is hereby directed to cease and hereafter desist from the construction, maintenance or operation of any lines, services or facilities of any nature whatsoever, used or to be used for or in connection with the distribution, delivery or sale of electric energy within three quarters of a mile, in any direction, from the present location of the United States post office in the village of Finley, Lake County, California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1914.

DECISION NO. 2032.

IN THE MATTER OF THE APPLICATION OF SANTA CLARA VALLEY WATER COMPANY FOR AUTHORITY TO ISSUE BONDS.

Application No. 1456.

Decided December 30, 1914.

Applicant authorized to issue $15,000.00 face value of bonds to be used partially to refund outstanding bonds, the balance to be sold at not less than par, proceeds to be used for additions and improvements to system, provided that $5,000.00 of such amount may only be issued under supplemental order after the approval of proposed improvements.

Edwin A. Wilcox, for Applicant.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Santa Clara Valley Water Company operates an irrigation system in the orchard district surrounding and in the vicinity of the town of Campbell, Santa Clara County. The applicant distributes flood waters of Los Gatos Creek. The applicant applies for authority to issue $15,000.00 of its refunding 6 per cent bonds, to be dated March 1, 1915, and to mature March 1, 1925. It is proposed to sell these bonds at par and to use the proceeds for the following purposes:

To refund outstanding issue of bonds	$8,000 00
To pay off note due First National Bank of San Jose	1,455 00
To provide for improvements in pipe and ditch across highway	545 00
To be reserved for future additions and betterments	5,000 00
Total	$15,000 00

This company has the right merely to the use of flood waters of Los Gatos Creek and, therefore, in dry seasons has no water to sell. In 1912 and 1913, which were rated as years of light rainfall in the Santa Clara Valley, the applicant took in, gross, $322.00 and $276.00, respectively. For the year 1914 the applicant presents a statement of earnings as follows:

Gross revenues	$5,037 51
Operating expenses and interest	2,498 86
Net earnings	$2,538 65

During the last year the applicant has levied an assessment from which it has collected the sum of $2,455.00. It has thus been able to reduce its entire indebtedness to $9,455.00.

The trust deed under which the applicant proposes to issue its bonds provides that they may be called at a premium of 2½, and provides for a sinking fund out of income of 15 per cent annually of outstanding bonds.

While the financial affairs of this company must, of course, be upon a more or less uncertain basis, it is clear that this company has, in good faith, since it first came before the Commission, proceeded to reduce its indebtedness and has not hesitated to assess its shareholders when such a course appeared to be necessary.

As has been pointed in a previous decision of this Commission, the shareholders of this corporation are largely users of water. The recommendation has previously been made and it is herein repeated, that this company could better be administered as a mutual water company. However, the present application is merely for authority to refund existing indebtedness and to provide for an improvement to cost $545.00. Although the company asked for authority to issue

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$5,000.00 of bonds for additions and betterments, it has requested that any authorization as to this $5,000.00 should be subject to supplemental orders from this Commission.

Under all of the circumstances in this case, I recommend that the application be granted and submit the following form of order:

ORDER.

Santa Clara Valley Water Company having applied to this Commission for authority to issue $15,000.00 of its refunding 6 per cent bonds under its proposed mortgage and deed of trust to Garden City Bank and Trust Company of San Jose; and a hearing having been held and it appearing that the purpose for which the applicant herein proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Santa Clara Valley Water Company be granted authority and it is hereby granted authority to issue $15,000.00 of its 6 per cent refunding mortgage bonds under its mortgage and deed of trust to Garden City Bank and Trust Company of San Jose, a copy of which has been filed in connection with the application herein and marked Exhibit "D."

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued under the mortgage and deed of trust referred to shall be issued only after the mortgage now upon applicant's property shall have been canceled of record.

(2) The bonds herein authorized to be issued, if sold for cash, shall be sold so as to net the applicant the par value thereof, plus accrued interest.

(3) The bonds herein authorized to be issued shall either be sold for cash or shall be exchanged on an equal par value basis for bonds now outstanding against the applicant.

(4) The proceeds from the sale of the bonds herein authorized to be issued shall be used for the following purposes and not otherwise:

(*a*) To retire applicant's outstanding bonds	$8,000 00
(*b*) To pay off applicant's floating indebtedness	1,455 00
(*c*) For the construction of new pipe, ditch, etc., across highway near Campbell as per application	545 00
(*d*) For additions and betterments to be made in the future	5,000 00
Total	$15,000 00

(5) The bonds herein authorized in the sum of $5,000.00 for the purpose of providing for future additions and betterments shall only be sold after the applicant herein shall have filed with this Commission a detailed list of such additions and betterments and this Commission shall have issued a supplemental order approving said list and

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specifically authorizing the issue of said $5,000.00 of bonds for said purposes.

(6) Santa Clara Valley Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(8) The authority herein granted shall apply to such bonds as shall have been issued on or before June 30, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1914.

DECISION No. 2033.

IN THE MATTER OF THE APPLICATION OF BUTTE VALLEY TELEPHONE COMPANY TO ISSUE STOCK.

Application No. 1277.

Decided December 30, 1914.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Butte Valley Telephone Company having applied to this Commission for authority to issue 22 shares of stock of the aggregate par value of $220.00, and the Commission being duly advised and being of the opinion that the application should be granted,

It is hereby ordered that Butte Valley Telephone Company be and it is authorized to issue 22 shares of stock of the par value of $10.00 per share upon the following conditions, and not otherwise, to wit:

1. Said stock shall be issued so as to net applicant the par value thereof.

2. The proceeds derived from the sale of this stock shall be used for the construction of a telephone line along the Moore-Richardson road,

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just outside of the limits of the town of Dorris, Siskiyou County, California.

3. Applicant shall not issue this stock until it has filed with this Commission a detailed statement of the items of cost incurred in the construction of this line.

4. The authority herein granted applicant shall apply only to stock issued on or before January 31, 1915.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1914.

DECISION NO. 2034.

W. S. VAN SCIEVER

vs.

THE OCEAN PARK HEIGHTS LAND AND WATER COMPANY, AND ANNA DELL SEGNO.

Case No. 601.

Decided December 30, 1914.

John L. Fleming, for Complainant.

Garrett & Bush, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SUPPLEMENTARY OPINION.

By opinion and order dated June 27, 1914, this complaint was dismissed as to the Ocean Park Heights Land and Water Company, a corporation, and continued for future hearing as to Anna Dell Segno. Since that time it has come to the knowledge of the Commission that the defendant has improved the water system serving the complainant and some seventy others, in practical compliance with suggestions made during the formal hearing in this matter, preceding the original order, and set forth in the opinion and order above cited.

The actual construction work completed and the cost thereof, as well as the resulting effect upon the water system and the supply provided consumers, are matters of record before the Commission in its action on Application No. 1374, filed by Anna Dell Segno, asking an investigation of the value of applicant's property and establishment of just and reasonable rates to be charged consumers in Ocean Park Heights District.

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It appears that now the quality and quantity of service should be satisfactory, and I believe that no further hearing is necessary.

I submit herewith the following form of supplementary order:

ORDER.

It is hereby ordered by the Railroad Commission of the State of California, that the above entitled complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1914.

DECISION No. 2035.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOS ANGELES FOR PERMISSION TO CONSTRUCT A RAILROAD TRACK ACROSS A CERTAIN SPUR TRACK OF THE SOUTHERN PACIFIC RAILROAD COMPANY AT GRADE.

Application No. 1314.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOS ANGELES FOR PERMISSION TO CONSTRUCT A RAILROAD TRACK IN McFARLAND STREET ACROSS A CERTAIN TRACK OF THE SOUTHERN PACIFIC RAILROAD COMPANY AT GRADE.

Application No. 1315.

Decided December 30, 1914.

Applicant, constructing a belt line railroad for switching purposes, is permitted to construct the tracks of such railroad across those of the Southern Pacific Company at grade, provided that applicant shall bear the entire cost of such construction and that the cars of the Southern Pacific Company shall have the right of way over same.

Albert Lee Stevens, for City of Los Angeles.

George D. Squires, for the Southern Pacific Company.

Frank Karr, for the Pacific Electric Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The above two applications refer to the same spur track and were therefore consolidated. The applications state that the city of Los Angeles, under section (2) of article (1) of its charter, has the right and power to "acquire by purchase, lease, condemnation, or otherwise, or construct, and to own, maintain, equip and operate telephone systems

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and telegraph systems, or other means of communication; also street railways, railroads and interurban railroads, steamships, steamboats, sailing vessels, ferries, or other means of conveyance, by land or water, between points within the city limits, or from points within to points without the city limits, either within or without the State of California, for the purpose of transporting passengers and freight, or either." Under this provision the applicant is now constructing a railroad track, the location of which is shown on maps and profiles attached to the applications, and marked Exhibit "A." The purpose of this track is to furnish a connection with the Pacific Electric Railway Company and the municipal water front, said track running from the Pacific Electric Railway track at Seventh street southerly on McFarland street to tidelands, and thence along the water front from McFarland street to Pier "A," in the city of Los Angeles. This municipal track when built will cross the tracks of the Southern Pacific Railroad Company at two points:

First, at the intersection of the center line of the municipal track with the center lines of the two tracks of the Southern Pacific Railroad Company's spur, at engineer's stations 25 + 97 and 26 + 20, respectively, as shown on the map attached as Exhibit "A" to Application 1314.

Second, at the intersection of the center line of the municipal track with the center line of the single track of the Southern Pacific Railroad Company's spur, at engineer's station 17 + 80, this crossing being known as the McFarland street crossing, and more particularly shown on the map attached as Exhibit "A" to Application 1315.

The power for operating over said municipal track may be either steam or electric, or both, electric current to be carried on overhead trolley wire. The city of Los Angeles desires to construct both of these proposed crossings at grade. It is contended that a separation of grades is impractical for the reason that the proposed track is in the nature of a belt line along the water front and will require branches, sidings and connections of various kinds from time to time, and that a separation of grades would make it impossible to use this track for the purpose for which it is intended.

The matter was set for a hearing for the reason, as stated by the city of Los Angeles, that the Southern Pacific Railroad Company was unwilling to grant the necessary easements and permission for the proposed crossings. The hearing was held in Los Angeles on December 9, 1914. An investigation made by the Commission's engineering department prior to the hearing showed that the facts were as set out by the applicant. I am satisfied that a separation of grades of these proposed crossings is out of the question, and that the application should be granted.

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It also appears that immediately subsequent to the hearing the applicant and the Southern Pacific Railroad Company entered into an agreement for the installation, protection and operation of these crossings, a certified copy of which has been filed with the Commission. Reference is hereby made to this agreement.

I hereby submit the following form of order.

ORDER.

City of Los Angeles, a municipal corporation, having on September 4, 1914, filed with the Commission its applications for permission to construct a railroad track at grade across the tracks of Southern Pacific Railroad Company, in the locations as described in the opinion preceding this order, and a public hearing having been held, at which all interested parties were represented, and it appearing to the Commission that it is not reasonable nor practicable to avoid grade crossings at said locations, and that the applications should be granted subject to the conditions hereinafter specified,

It is hereby ordered that permission be hereby granted city of Los Angeles to construct its municipal track at grade across the tracks of Southern Pacific Railroad Company at the points hereinbefore described, subject to the following conditions, viz:

(1) The city of Los Angeles shall, at its own cost and expense, install and maintain in good condition and repair the necessary crossing frogs and rails to carry the engines, trains, motors and cars of the interested parties.

(2) All electric wires, trolley wires and guard wires at said crossings shall be installed and maintained in compliance with the provisions of this Commission's General Order Number 26, prescribing "regulations governing clearances and construction at crossings of railroads, street railroads, telegraph, telephone, signal, trolley and power lines, with each other and with streets and public highways; also other overhead and side clearances of railroads, street railroads and wire lines."

(3) No engine, train, motor or car shall be permitted to stand on either of said crossings, or to obstruct the same further than may be necessary for its passage thereover.

(4) In the passage of engines, trains, motors and cars of the respective parties over either of said crossings, the engines, trains, motors or cars of the Southern Pacific Railroad Company shall at all times have precedence in the use of said crossings.

(5) Until the erection and satisfactory operation of an interlocking switch and signal system, controlling the movement of engines, trains, motors and cars of said railroads, no engine, train, motor or car of the applicant shall be permitted to pass over said crossings until one of the crew, or other employee of the applicant, shall first go upon the crossing to ascertain that no engine, train, motor or car of the Southern

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Pacific Railroad Company is approaching the crossing from either direction whereupon he may signal his engine, train, motor or car to proceed over the crossing if no engine, train, motor or car of the Southern Pacific Railroad Company be approaching.

(6) The crossing designated as number (2), in the opinion preceding this order, and known as the McFarland street crossing, shall be ballasted with first class stone or gravel ballast to a depth of not less than six (6) inches, and in every way be made safe for the passage thereover of vehicles and other road traffic.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1914.

DECISION NO. 2036.

T. F. DRAPER

vs.

NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 721.

Decided December 30, 1914.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

ORDER OF DISMISSAL.

At the hearing of the above entitled complaint on December 28, 1914, the complainant made verbal request for either a postponement of the hearing or a dismissal of the complaint.

It is hereby ordered that the complaint in the above entitled proceeding be and the same hereby is dismissed without prejudice.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1914.

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DECISION No. 2037.

COLONY HOLDING CORPORATION

vs.

COALINGA WATER AND ELECTRIC COMPANY, MIDLAND COUNTIES PUBLIC SERVICE CORPORATION, AND SAN JOAQUIN LIGHT AND POWER CORPORATION.

Case No. 642.

Decided December 30, 1914.

Complainant, alleging that defendant company has refused to extend its lines to render service desired by complainant, petitions the Commission to compel such extension, and it appearing that the cost thereof would approximate the sum of $850.00 and that it would be unfair to expect defendant company to incur such an expense with no protection for such invested capital, two alternatives, providing service for complainant and the necessary protection to defendant, outlined, under either of which defendant is directed to construct the necessary extensions and to supply service at its regular rates.

Frank James, for Complainant.

W. A. Sutherland, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

The essence of the complaint herein is that Midland Counties Public Service Corporation has refused and still refuses to extend its lines and serve electric energy to complainant unless complainant first signs a three-year contract at the established rates of Midland Counties Public Service Corporation.

The Public Service Corporation admits in effect that the signing of a contract for a period of three years has been made a condition precedent to the supplying of the service desired by complainant, but alleges that such action on its part corresponds with its regular practice and contends that there should be no deviation from the practice in this case.

The facts are substantially as follows: On or about November 18, 1912, one J. M. Henry entered into a contract with Coalinga Water and Electric Company, under the terms of which contract the Coalinga Company was granted rights of way across certain property owned by Henry in San Luis Obispo County and known as the Atascadero Rancho. This contract provides that the Coalinga Company shall pay to Henry the sum of $125.00 each year during the time said lines are maintained on said property, commencing December 1, 1912, or in lieu thereof shall pay the sum of $2,000.00 in full settlement of the company's obligation to make said annual payments. The contract further provides that the Coalinga Company shall, as soon as its transmission lines are in

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operation, build at its own expense two service lines to points on said rancho, to be designated by Henry, for the purpose of supplying electric energy, and that the Coalinga Company shall, upon demand, construct at its own expense additional service lines upon said property, provided that in each case the total gross revenue for energy delivered by the company shall within three years equal the cost of the line. Provision is made in the contract for metering all energy at the delivery point, and it is agreed that the rates to be charged by the Coalinga Company shall be the lowest rates for like service supplied by this company at any point in San Luis Obispo County. The contract is made binding upon the heirs, executors, administrators, successors and assigns of the parties thereto.

Subsequent to the date of this contract and prior to the filing of the complaint in this proceeding, the name of the supplying utility was changed from Coalinga Water and Electric Company to Midland Counties Public Service Corporation, and Colony Holding Corporation was organized for the purpose of purchasing, subdividing, improving and selling the property now known as the J. H. Henry ranch and heretofore referred to as the Atascadero Rancho.

In furtherance of the object of its organization, complainant has, at considerable expense, erected a brickmaking plant on the ranch and has applied to the Public Service Corporation for electric service for a 100 horsepower motor to operate said plant.

The Public Service Corporation, hereinafter referred to as the defendant, has indicated its willingness to supply the service desired by complainant, but only upon condition that complainant enters into a three years' contract, which requirement was modified at the hearing to a contract for one year at the existing rates for said service. Complainant objects to entering into any contract whatsoever which can not be terminated by it upon thirty days' notice and frankly states that its objection to a term contract is based upon the belief that defendant's present rates are considerably in excess of what the cost would be to complainant to generate and distribute the electric energy which it will require.

The present rates of defendant applicable to the 100 horsepower motor above referred to are as follows:

TABLE I.

Rates for Installations of More Than 50 Horsepower.

6 cents per kilowatt hour for a metered consumption equivalent to the first forty-five hours, or fraction thereof, per month's use of the maximum demand.
1½ cents per kilowatt hour for all excess energy used during the month.
Monthly minimum guarantee of $1.00 per installed horsepower.

Under the terms of the contract submitted by defendant, the consumer's use of the service is restricted to the hours shown in Table II,

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with a penalty of $50.00 per hour or fraction thereof for use at any other time.

TABLE II.

Daily Operating Period at Rates Shown in Table I.

January	12:01 a. m. to 4:40 p. m.	July	12:01 a. m. to 7:05 p. m.
February	12:01 a. m. to 5:25 p. m.	August	12:01 a. m. to 6:40 p. m.
March	12:01 a. m. to 5:50 p. m.	September	12:01 a. m. to 5:50 p. m.
April	12:01 a. m. to 6:25 p. m.	October	12:01 a. m. to 5:00 p. m.
May	12:01 a. m. to 6:50 p. m.	November	12:01 a. m. to 4:30 p. m.
June	12:01 a. m. to 7:05 p. m.	December	12:01 a. m. to 4:20 p. m.

There appears to be no question as to the cost to defendant of the required extension to serve complainant, which cost has been referred to as $850.00, and defendant maintains that a contract is necessary to assure defendant that this investment will be returned to it during a period which, in accordance with the right of way contract heretofore referred to, shall not exceed three years. Complainant, on the other hand, has agreed to advance the cost of the service line to defendant if defendant will agree to pay interest thereon at the rate of 6 per cent per annum, and states that it is willing in any other way to guarantee defendant against the loss of the said investment except in such manner as would require complainant to take service for any definite period of time.

In view of all the facts as presented, it appears to me that both the complainant and the defendant in this case have failed to recognize the actual point at issue. Both parties are evidently acting in good faith, the defendant by insisting on a profitable investment which it believes can only be assured by continuous service for a definite period of time, and the complainant by frankly stating its position and offering to reimburse the company for the cost of the service line. In this case the service must, in view of complainant's own statements, be considered as only temporary, and to supply this temporary service defendant must construct and maintain a certain service line exclusively for complainant's use and located entirely upon complainant's premises. While there can be no doubt that, under normal service conditions, this investment would be fully justified by the revenue to be received and should be made entirely at defendant's own cost, the temporary nature of the service required demands that the matter be considered carefully and that defendant and its consumers be protected against the loss which would obviously result from a discontinuance of service before its full cost had been repaid. It is also clear that by merely reimbursing defendant for the cost of the service line, complainant has not paid for the full cost of service and that after the capital investment has been retired there still remains the cost of the energy delivered to be provided for.

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Without passing upon the reasonableness of defendant's present rates, regarding which the Commission has at this time no information, it may be assumed for the purpose of this case that the minimum rate of 1½ cents per kilowatt hour represents the cost of energy to be delivered to complainant and that the excess of 4½ cents per kilowatt hour over this minimum rate provided for in the first block of the schedule applicable to this service, together with the excess due to the minimum charge of $1.00 per month per horsepower of maximum demand, should apply on the cost of the service line to serve complainant.

In view of all the facts I find that complainant is entitled to receive service from defendant and that defendant should at once proceed to construct the necessary service line and furnish such service to complainant's brick plant under either of the following conditions:

First—(*a*) That complainant shall advance to defendant the estimated cost of the service line, which cost has been referred to as $850.00, upon which sum defendant shall pay complainant interest at the rate of six per cent (6%) per annum.

(*b*) That the sum so advanced by complainant shall be refunded by defendant at the end of three years from the date when service connection is first made with complainant's brick plant; provided, that all sums due defendant for service supplied to complainant's brick plant have been paid; and provided, further, that service has not been discontinued during said three-year period at complainant's request.

(*c*) That in the event complainant requests defendant to discontinue service before the expiration of said three-year period then defendant shall pay to complainant, in lieu of the entire sum advanced by it to cover the cost of the extension, a sum equal to the difference between the total of all sums theretofore paid, plus all sums then owing and unpaid by complainant to defendant for electric service supplied by defendant to complainant's brick plant and what complainant's total payments would have been at a uniform rate of 1½ cents per kilowatt hour; provided, that the maximum sum so refunded shall not exceed the amount of the original advance payment made by complainant.

(*d*) That complainant shall give written notice to defendant of its desire to discontinue service at least thirty days prior to the date when when such service is to be discontinued.

Second—(*a*) That complainant shall, by proper guarantee or in such other manner as may be satisfactory to defendant, insure defendant against loss in the sum of $850.00 for a period of three years from the date when service connection is first made with complainant's said brick plant.

(*b*) That, in the event complainant requests defendant to discontinue service before the expiration of said three-year period, then complainant shall pay to defendant, in addition to all sums theretofore paid and then

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owing and unpaid on account of electric service furnished by defendant, a further sum equal to $850.00, less the difference between actual total amount paid for service, as above stated, and what complainant's total payment for service would have been at a uniform rate of 1½ cents per kilowatt hour; provided, that the maximum additional sum so paid by complainant shall not exceed $850.00.

(*c*) That the complainant shall give written notice to defendant of its desire to discontinue service at least thirty days prior to the time when such service is to be discontinued.

It will be unnecessary at this time to consider the proposed restriction upon complainant's hourly use of the service to be supplied by defendant for the reason that no such restriction is provided for in the rates, rules and regulations of defendant now on file with this Commission. Under the circumstances, no restriction whatsoever can be enforced by the defendant at the present time under the existing rates.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the same having been submitted and being now ready for decision, the Commission hereby finds as a fact that Colony Holding Corporation is entitled to receive electric service from Midland Counties Public Service Corporation, and Midland Counties Public Service Corporation should extend its lines and furnish electric service to Colony Holding Corporation upon the terms and conditions set forth in this order, and that said terms are just and reasonable under the circumstances of this case.

Basing its conclusions upon the foregoing findings of fact and on the other findings which are contained in the opinion which precedes this order,

It is hereby ordered that Midland Counties Public Service Corporation be and the same is hereby directed to extend its lines and supply electric energy to Colony Holding Corporation within thirty days from the date when said Colony Holding Corporation advances or guarantees payment of the sum of $850.00, as herein provided, and agrees in writing to receive and pay for said service and to reimburse said Midland Counties Public Service Corporation for the cost of the service line to Colony Holding Corporation's brick plant under either of the following conditions, to wit:

First—(*a*) That complainant shall advance to defendant the estimated cost of the service line, which cost has been referred to as $850.00, upon which sum defendant shall pay complainant interest at the rate of six per cent (6%) per annum.

(*b*) That the sum so advanced by complainant shall be refunded by defendant at the end of three years from the date when service con-

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nection is first made with complainant's brick plant; provided, that all sums due defendant for service supplied to complainant's brick plant have been paid; and provided, further, that service has not been discontinued during said three-year period at complainant's request.

(*c*) That, in the event complainant requests defendant to discontinue service before the expiration of said three-year period, then defendant shall pay to complainant in lieu of the entire sum advanced by it to cover the cost of the extension a sum equal to the difference between the total of all sums theretofore paid, plus all sums then owing and unpaid by complainant to defendant for electric service supplied by defendant to complainant's brick plant and what complainant's total payments would have been at a uniform rate of one and one half cents per kilowatt hour; provided, that the maximum sum so refunded shall not exceed the amount of the original advance payment made by complainant.

(*d*) That complainant shall give written notice to defendant of its desire to discontinue service at least thirty days prior to the date when such service is to be discontinued.

Second—(*a*) That complainant shall, by proper guarantee or in such other manner as may be satisfactory to defendant, insure defendant against loss in the sum of $850.00 for a period of three years from the date when service connection is first made with complainant's said brick plant.

(*b*) That, in the event complainant requests defendant to discontinue service before the expiration of said three-year period, then complainant shall pay to defendant, in addition to all sums theretofore paid and then owing and unpaid on account of electric service furnished by defendant, a further sum equal to $850.00 less the difference between actual total amount paid for service, as above stated, and what complainant's total payment for service would have been at a uniform rate of one and one half cents per kilowatt hour; provided, that the maximum additional sum so paid by complainant shall not exceed $850.00.

(*c*) That complainant shall give written notice to defendant of its desire to discontinue service at least thirty days prior to the time when such service is to be discontinued.

It is to be distinctly understood that the rates to be paid by Colony Holding Corporation for the service to be furnished by Midland Counties Public Service Corporation hereunder, and the rules and regulations applicable to such service except in so far as said rates, rules or regulations are expressly modified by this order, shall be the rates, rules and regulations now regularly in effect and on file with this

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Commission, or modifications thereof which may hereafter become effective as provided by law.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1914.

DECISION NO. 2038.

IN THE MATTER OF THE APPLICATION OF THE MANOR WATER COMPANY FOR AN ORDER AUTHORIZING IT TO INCREASE WATER RATES AND TO HAVE RULES AND REGULATIONS ESTABLISHED.

Application No. 1350.

Decided December 30, 1914.

Applicant, contending that its water system is operated at a loss, petitions the Commission for permission to increase its rates and to establish certain rules and regulations, and it appearing that an increase is justified, a rate of 75 cents per month for 200 cubic feet of water, with an excess charge of 30 cents per 100 cubic feet established together with rules and regulations governing the supply and distribution of water.

Prentice N. Gray, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by the Manor Water Company, owning and operating a public utility water plant serving Fairfax, Marin County, California, for authority to increase the rates charged for water. The present rate is 70 cents per month for 2,000 gallons, or fraction thereof, excess water at the rate of 35 cents per 1,000 gallons.

Applicant's principal place of business is at 110 Market street, San Francisco, California; purchased its water plant from the Fairfax Development Company, issuing in exchange therefor 1,476 shares, of the par value of $10.00 each, of its capital stock, in accordance with the terms of Decision No. 1825 of this Commission, decided September 24, 1914.

The Fairfax Development Company, holder of the capital stock of the Manor Water Company, constructed this water system as an adjunct of and aid to the sale of the tracts of land known as Fairfax Manor, Bothin Park and Manor townsite, Marin County.

The supply is obtained from wells to the limit of their capacity, and an additional supply is purchased from the Marin Water and Power Company at a rate of 30 cents per 1,000 gallons. The water is pumped,

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.or taken from the Marin Water and Power Company's main, into a tank, known as Tank 1, located 170 feet above the level of the wells.

A majority of the consumers are served from this tank without further pumping. Some seventeen consumers take water, at present, at a higher elevation and the water is pumped into two tanks, known as Tanks No. 2 and No. 3. Tank No. 2 is located 260 feet above Tank No. 1, and Tank No. 3 is located 200 feet above Tank No. 2. Tank No. 2 serves at present seventeen consumers and Tank No. 3 serves six consumers.

The system is practically all metered.

To a large extent the district served by this water system may be termed a "summer home tract," although a considerable number of people reside here the year round. The number of permanent residents is gradually increasing. In 1914 some sixty-four consumers were served in July, of these forty-eight being metered.

The petition in this case alleges that from January 1, 1914, to August 1, 1914, applicant purchased from the Marin Water and Power Company water for which was paid the sum of $294.75 and sold to consumers water amounting to the sum of $303.50.

In addition to the amount paid to the Marin Water and Power Company for water, applicant estimates the monthly cost of maintaining and operating its plant, including power for pumping, reading meters, repairs and attendance, to be approximately $45.00. For the seven months ending August 1, 1914, applicant, therefore, expended $609.75 for the operation of its plant and for water furnished by the Marin Water and Power Company, for which it received only $303.50, or a loss of $303.25 in operation expenses alone.

A public hearing on this application was held in San Francisco on November 14, 1914. At this hearing, Mr. Prentice S. Gray, who appeared for the applicant, stated frankly that he did not expect a rate to be fixed on the basis of the amount invested, on the ground that a great portion of the expenses involved in installing this plant was caused by the extension of water mains over lands owned by this company, not yet occupied, in order to promote the sale of real estate. The testimony shows that of the whole subdivision approximately 25 per cent of the lots are occupied at present.

While the present pipe system, due to the scattered location of residents in these tracts, is all necessary to serve the present small number of users, I am of the opinion that it would be unjust to compel the present consumers to bear the burden of an investment made necessary only by desire of the Fairfax Development Company to promote real estate sales.

Mr. Gray further stated that he desired this Commission to fix a fair and just rate such as has been established under similar conditions by

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this Commission. I am of the opinion that the schedule of rates which applicant desires to have established are not excessive or unreasonable and in all probability will not be more than sufficient to pay operating expenses without regard to any depreciation or interest on investment involved.

I submit herewith the following form of order:

ORDER.

The Manor Water Company having applied to the Railroad Commission of the State of California for an order authorizing it to put into effect a rate of $1.00 per month for 2,000 gallons or fraction thereof, excess water at the rate of 50 cents per 1,000 gallons, and for the approval of certain rules and regulations attached to its application and marked Exhibit "B," and a public hearing having been duly held and the Commission being fully apprised in the premises,

It is hereby found as a fact by the Railroad Commission of the State of California that the rates now charged consumers for delivery of water by the Manor Water Company are unjust and unreasonable; and it is hereby further found as a fact that the rates and rules and regulations set out in the following order are just and reasonable rules and regulations and rates to be charged by the Manor Water Company to its consumers for water; and basing its order on the foregoing finding of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered, by the Railroad Commission of the State of California, that the applicant, Manor Water Company, be and hereby is authorized to establish the following charges for water to its consumers:

Seventy-five cents per month for 200 cubic feet or fraction thereof.
Excess water at the rate of 30 cents per 100 cubic feet.

It is hereby further ordered that permission and authority be given applicant to put into effect the rules and regulations attached hereto and nominated Exhibit "A."

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of December, 1914.

EXHIBIT "A."

Rules and regulations of the Manor Water Company.

Rule No. 1. Before water is supplied to or turned off from any premises written application therefor must be made to the company by the person entitled to this service.

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Rule No. 2. Monthly deposits must be made to secure the payment of rates except:

(*a*) For water supplied to the owner of the premises.

(*b*) For water supplied to a tenant, the payment of whose water bill is guaranteed by the owner of the premises or by a responsible party satisfactory to the company.

The deposit when required must be sufficient to pay for the amount of water which it is estimated by past records will be consumed monthly, plus 10 per cent, or if there is no record, the minimum monthly rate plus twenty-five cents. Any excess of such deposit over the actual charge will be returned to the consumer if the service is discontinued, otherwise it will be credited to him on account of his deposit for the ensuing month. Any deficiency will be demanded in addition to the regular deposit.

Rule No. 3. The company will, as soon after the first of each month as practicable and not later than the fifth of the month, mail or deliver to each consumer a statement of his bill for the preceding month at the address given to the company by said consumer. All bills shall be due and payable at the office of the company on the first and delinquent on the fifteenth of the month succeeding the month in which the water is furnished.

Rule No. 4. After water bills have become delinquent under Rule No. 3 the company may, upon five days' written notice being given, discontinue the supply and refuse to furnish water until all arrears are paid and a deposit is made in the manner provided in Rule No. 2.

Rule No. 5. Meters (if any) and services shall be installed to the front line of the lot at the company's expense.

Rule No. 6. No allowance shall be made in water rates by reason of the non-occupation of the premises where the water is supplied unless the company has been notified to shut off or disconnect the water from such premises.

Rule No. 7. Any damage occurring to the meter or any fixture belonging to the company through carelessness or neglect of the consumer shall be paid for by the consumer on presentation of a bill therefor.

Rule No. 8. When any consumer desires to have a meter tested he may make application in writing to the company and deposit with said application the sum of ($1.00) one dollar. The company will then cause the meter to be examined and tested and if upon such examination the meter is found to register more than 3 per cent over the amount of water actually passing through it, another meter shall be substituted for it and the fee of ($1.00) one dollar will be returned and the water bill for the current month adjusted by an amount in proportion to the error discovered. If the meter shall be found to

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register less than 3 per cent over the actual amount of water passing through it, the fee of ($1.00) one dollar shall be retained by the company to reimburse it for the cost of the examination, and the water bill stand as rendered.

Rule No. 9. No consumer shall provide water to any person, company or corporation other than the occupant of the premises of said consumer except upon the written permission of the company.

Rule No. 10. The company shall have the right in any emergency to turn on or off the water from the pipes of the system without notice. The company will make all possible effort to notify its consumers in advance when it is necessary to turn off the water from its mains or laterals.

Rule No. 11. If water has been in use at the premises for less than three months a charge of fifty cents ($.50) will be made for turning the water off.

Rule No. 12. The company reserves the right to withhold service from any consumer while said consumer remains in default of any payment provided in these rules.

Rule No. 13. The following are hereby declared to be the water rates for domestic service; all rates are monthly:

Seventy-five cents ($.75) per month for 200 cubic feet or fractions; excess water at thirty cents ($.30) per 100 cubic feet.

DECISION NO. 2039.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS, MONTEREY COUNTY, FOR PERMISSION TO OPEN A PUBLIC HIGHWAY IN ALISAL ROAD DISTRICT, AT GRADE, ACROSS THE TRACKS OF SOUTHERN PACIFIC COMPANY NEAR SALINAS, MONTEREY COUNTY, CALIFORNIA.

Application No. 1249.

Decided December 31, 1914.

Applicant authorized to construct a crossing at grade across the tracks of the Southern Pacific Company near Salinas in Monterey County, provided that applicant shall bear the expenses of an automatic flagman for the protection of such crossing.

George D. Squires, for Southern Pacific Company.

F. W. Sargeant and *H. E. Abbott*, for Applicant.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was made, and the hearing was subsequently held, under section 2694 of the Political Code, as amended January 2, 1912, which requires that after viewers have been appointed to view a crossing which a county proposes to open, a certified copy of the petition requesting the opening of such crossing, and of the order appointing viewers, be submitted to the Commission, and a hearing thereafter held, at which hearing the Commission shall hear the evidence and "determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation and maintenance, use and protection of said crossing."

The road which Monterey County proposes to open is a road running in a northeasterly and southwesterly direction, and will cross the main track of the Coast Line of the Southern Pacific Company about two and one half miles south of Salinas. It will be the nearest direct route for the ranchers and stock raisers in the Alisal District to and from the Spreckels factory, and will do away with the present necessity of forcing a detour in all travel between these points, via Salinas, about two and one half miles to the north, or Spence, about five miles to the south, these points being the locations of the nearest crossings now open. It will also serve as a connection between two county roads which run practically parallel to the railroad, and which have no connection except by the roads above mentioned.

There is no question but that this road is much needed in the road system of the county, and since no opposition was made on behalf of the Southern Pacific Company to the granting of this application, the principal matter in this connection is the determination of the proper division of the expense of the crossing between the parties at interest, and its necessary protection. When the road is opened drivers of vehicles approaching this crossing will have a fairly good view of approaching trains except when approaching from the west, when the view of southbound trains will be obstructed by an intervening hill high enough to shut off most of the view. This situation will be somewhat helped by the construction of a grade approaching the crossing which will be about two feet high, but it will not relieve the situation of a large element of danger. I am of the opinion that this crossing should be protected by an automatic flagman, and that the county should stand the expense of installing the same. This expense will be about the only expense incurred by the construction of the crossing, since there is at the present a farm crossing at this point, and grades of approach, cattle guards and wing fences are already installed.

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I submit the following form of order:

ORDER.

Board of supervisors, Monterey County, California, having applied to the Commission for permission to construct a certain road, more particularly described in the application and shown by the map accompanying same, over the tracks of Southern Pacific Company, and a hearing having been held, and being fully apprised in the premises,

It is hereby ordered that permission be and the same hereby is granted the board of supervisors of Monterey County, California, to construct a public highway crossing at grade over the tracks of Southern Pacific Company, at the point and in the manner applied for, subject to the following conditions, viz:

(1) Any expense attendant upon changing the present farm crossing to a public highway crossing shall be borne by the applicant.

(2) The expense of maintaining the crossing up to a line two (2) feet outside of the rails of Southern Pacific Company shall be borne by applicant. The expense of maintaining the crossing between the rails and to a line two feet outside thereof shall be borne by Southern Pacific Company.

(3) The crossing shall be made with grades of approach not exceeding six (6) per cent and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) Southern Pacific Company, for the protection of said crossing, shall install an automatic crossing protection device of a type approved by the Commission. The expense of providing and installing this device shall be borne by the applicant, and its maintenance thereafter shall be borne by Southern Pacific Company.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1914.

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Decision No. 2040.

IN THE MATTER OF THE APPLICATION OF LONE OAK CANAL COMPANY FOR THE ESTABLISHMENT OF RULES RELATING TO THE DISTRIBUTION OF ITS WATER AND COLLECTION OF CHARGES THEREFOR.

Application No. 1296.

Decided December 31, 1914.

Applicant, contending that its present rates do not provide an adequate return sufficient to cover operating expenses and interest upon investment, petitions the Commission for permission to increase its present rates for water for irrigation purposes, and it appearing upon investigation that applicant's deficit is practically entirely due to its lax methods of operation and that such deficit could be considerably reduced by the enforcement of adequate rules and regulations governing the distribution of water, application to increase rates denied. Applicant permitted to collect a charge of 50 cents per acre for carrying water through its ditches owned by other stockholders in the same company from which it receives its supply and adequate rules and regulations prescribed which applicant is directed to put into effect within thirty days.

H. P. Brown, for Applicant.

Report of the Commission.

Gordon, *Commissioner.*

The Lone Oak Canal Company made petition to the Commission, on August 26, 1914, for permission to establish rules and regulations, and to have fixed adequate rates for water used for irrigation of the lands of consumers.

A public hearing was conducted in Hanford on December 17th, at which time a number of consumers testified in regard to the quality of water service and the propriety of the present established rates, and the company presented evidence to support its contention that rates were inadequate, and that in reason it should be allowed to place all consumers upon a uniform basis and under uniform regulation.

The Lone Oak Canal Company receives its water supply from the Last Chance Ditch Company, a mutual concern, through the ownership of $6\frac{2}{16}$ shares of stock. The entire stock issue of the Last Chance Ditch Company is sixty (60) shares, each of which is generally assumed to give a sufficient interest to enable the owner to irrigate, with the water transported, 640 acres of land. Of the sixty (60) shares, fifteen (15) are still held in the treasury of the company, the water being roughly apportioned to the owners of the 45 shares outstanding.

The applicant owns seventeen miles of ditch and lateral, with appurtenant structures and rights of way, and besides the shares of Last

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Chance Ditch Company's stock, claims ownership of twenty-four shares of stock in the New Deal Ditch Company.

The property at present owned and operated by the Lone Oak Canal Company was established by F. E. Robinson in 1906, and the canal system then constructed to provide service to lands which the said Robinson subdivided and placed on the market.

The Lone Oak Canal Company was incorporated by Robinson in 1910 and 500 shares of stock were then issued, all being retained by Robinson excepting three shares issued to others to qualify them as directors. Subsequently, F. M. Parrish, one of the directors, lent $10,000.00 to Mr. Robinson, accepting the property of the Lone Oak Canal Company as security, and in May, 1914, this mortgage was foreclosed and Mr. Parrish bought in the property at a sheriff's sale, paying, according to testimony presented before the Commission, $10,000.00, the amount of the indebtedness, and assuming a further $10,000.00 notes due. This may or may not be a duplication of account. According to a statement of receipts and disbursements of this company, F. M. Parrish, besides having advanced $10,000.00 to Robinson, has expended upon the property the net sum of $4,880.00. It therefore appears that the cost of this property to Mr. Parrish, now acknowledged to be the owner, is $14,880.00. The proprietor has admitted his willingness to deliver the property of the company upon the payment of $25,000.00.

Valuations of the property were prepared by the hydraulic engineer of the Commission and by J. B. Benidict, engineer for the company, the former totaling $26,148.00 present value, and the latter $48,431.70. The valuation prepared for the Commission uses 77 acres at $75.00 per acre as the total area of land available to the utility use, assumes a value of the shares of stock in the Last Chance Ditch Company at the cost testified to by F. E. Robinson, to wit, $7,075.00, and assumes $6\frac{9}{16}$ shares of New Deal Ditch Company's stock at $100.00 to be used and useful instead of 24 shares actually the property of the company.

The statements of expenditures made on account of this water system for 1912, 1913 and 1914 are the only basis in testimony for an estimate of the proper annual cost of maintenance and operation of this system, excepting that the assessments of the Last Chance Ditch Company's stock were shown to be $200.00 per share per annum. I will assume the following estimate of annual cost of maintenance and operation:

Assessment Last Chance stock, 6 9/16 shares at $200.00	$1,320 00
Assessment New Deal stock, ⅓ cost of operation of the New Deal ditch	120 00
Ditch tender	600 00
Maintenance and repairs	500 00
Taxes, insurance and general	200 00
Total	$3,340 00

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Annual depreciation was computed only by the Commission's engineers and by them found to be $459.00. Total charges that may reasonably be provided by ratepayers to this company, were the system utilized to full capacity, are therefore as follows:

Interest on $25,000.00 at 7 per cent	$1,750 00
Annual depreciation	459 00
Maintenance and operation	3,340 00
Total	$5,549 00

There was no competent testimony to establish the amount of water that this ditch company has received from the Last Chance Ditch Company and may therefore expect to continue to receive, nor to establish the amount that the Last Chance Ditch Company in its turn might at all times be able to deliver. It was admitted by the Lone Oak Canal Company that no measurement of water is made, and that the distribution of the water among its consumers is according to the opinion of a young man with practically no experience. There is no reason to suppose that under the present methods each consumer receives his fair proportion of the water available or the amount that he may need to carry on a commercially successful business of raising crops. In fact, there was considerable testimony that certain water users on the lower end of this system did not receive water when other users near the intake received water practically without restraint.

It was apparently established at the hearing that 5,500 acres is the area which this company can irrigate and has under its system. In order to get right of way expeditiously, apparently for the sake of being better enabled to market his lands, Mr. Robinson contracted with the owners of small ditches and others along the line of his proposed canal to carry water and deliver to the lands of various persons the water supply for the irrigation of their premises without charge. The owners of some $2\frac{1}{16}$ shares of Last Chance Ditch stock have their water carried a greater or less distance by this company. One user, particularly, M. F. Nunez, was granted the privilege of operating at his pleasure a check placed across the main canal of this company. At this check Mr. Nunez, when he is irrigating, raises the water to a level decidedly above that necessary for flow to the consumers located below him along the ditch.

Nunez is the owner of stock in the Last Chance and People's Ditch companies, and according to the testimony holds the water at a great level in the canal and irrigates for long periods, causing the loss of a great deal of water by increased seepage from the canal and a great deal of inconvenience to both the canal company and all other consumers, through their not knowing when or how they may expect to receive an increased or decreased supply. If Mr. F. E. Robinson were now under the jurisdiction of the Commission, I would recommend

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that he be severely criticized for having entered into a contract so obnoxious to the interest of the body of consumers from this utility. Robinson, personally, lost nothing. Nunez can not be blamed for having demanded an arrangement so apparently advantageous to himself.

In return for this agreement the Lone Oak ditch was constructed for a half a mile on the site of the ditch formerly used by Nunez, and it appears from the testimony that it is difficult to either construct a new ditch to replace the Lone Oak ditch or a separate lateral for Nunez from the New Deal canal.

I recommend that the Lone Oak Canal Company put into effect rules and regulations providing for the rotation of water to all who receive water through its canal, and that the canal company's management establish a schedule and adhere to it strictly, having their employees make all changes of gates. In my opinion, the interest of the greater number of consumers must be subserved, notwithstanding any contracts which may have been entered into heretofore and which now appear to be detrimental to the system.

The present rates for service are 75 cents per acre, payable January fifteenth, and 75 cents per acre additional, payable August fifteenth of the year during which the water is used, making a total payment of $1.50 per acre per annum. The amount in advance has generally not been collected, and it appears that consumers have assumed the right to use water almost at will and to make their own returns of the acreage covered. In cases where measurements have been made by the company, there has been considerable controversy, the area reported by the consumers invariably falling short of that which the company determined had been watered.

I will recommend a rule that the acreage to be irrigated must be determined and paid for in advance, in accordance with the rate above cited, and that where water is used on additional land, unless request is made before use, the area will be accepted at the company's determination.

While the records of receipts from the sale of water within the last three years indicate an average annual income of about $2,250.00, there appears from the testimony to be every probability that the company can sell all its water to others, if not to the present consumers, and if water be sold to all the lands within its reach, the returns will amply cover all charges. With no increased demand the returns apparently will be inadequate to cover even maintenance and operation cost. However, it must be borne in mind that the utility has been operating under abnormal conditions, and a considerable part of an apparent loss at this time has probably already been covered under the sale price of lands or should be provided for later in rates received when the capacity of the system is being utilized. I will, therefore, not recom-

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mend an increase of rates, but will recommend that where water is carried for individuals who own stock in the Last Chance or People's Ditch companies a rate of 50 cents per acre per annum be established.

I submit herewith the following form of order:

ORDER.

The Lone Oak Canal Company having made application for the establishment of rules and regulations and rates, and a public hearing having been held, and the Commission being fully apprised in the premises:

It is hereby found as a fact by the Railroad Commission of the State of California that the rates of the Lone Oak Canal Company so far as established are proper rates; that there is no rate established for service of this company in carrying water to various consumers owning, individually, shares in the Last Chance and People's Ditch companies, and that for people so served a proper rate will be 50 cents per acre per annum; and

It is further found as a fact that the Lone Oak Canal Company has no adequate rules and regulations to govern affairs between itself and its consumers, and that reasonable rules and regulations are those set forth in Exhibit "A" attached hereto; and basing its order on the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

For all consumers using water obtained by this company from the Last Chance ditch and for which this company owns shares and pays assessments, $1.50 per acre per annum.

For all consumers owning shares in supplying ditches and paying assessments thereon, this company acting only as a carrier, 50 cents per share per annum.

It is hereby ordered, by the Railroad Commission of the State of California, that the rates of the Lone Oak Canal Company shall be as follows:

It is further ordered that the Lone Oak Canal Company adopt the rules and regulations set forth in Exhibit "A" attached hereto, to become effective within thirty days after the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1914.

EXHIBIT "A."

Rules and regulations Lone Oak Canal Company established by order of the Railroad Commission of the State of California, effective on and after ————————.

The rates of this company are as follows:

Rule I. For all consumers using water obtained by this company from the Last Chance ditch and for which this company owns shares and pays assessments, $1.50 per acre per annum.

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For all consumers owning shares in supplying ditches and paying assessments thereon, this company acting only as a carrier, 50 cents per acre per annum.

Rule II. Rates are due and payable as follows:

Rates to be paid by consumers paying the full rate above established shall be due and payable, 75 cents per acre, at the office of the Lone Oak Canal Company on or before January 15th of the year in which the use is contemplated, and the remaining 75 cents per acre on August 15th of the same year.

On the former date a written statement must be provided signed by the consumer, giving the acreage, and location of the land that he intends to irrigate. The payment of 50 cents per acre per annum to be made by the second class of consumers set forth in Rule I. shall be due and payable on or before April 1st of the year during which service is to be rendered.

Rule III. The company will establish a rotation schedule, subject to the approval of the Railroad Commission, and will deliver water to all users in accordance therewith in proportion to their stated acreage.

To those water users owning shares in the mutual canal companies supplying water to this system, water will be delivered at time periods fixed by the schedule, but in amount measured by the water delivered to this system less seepage loss.

Rule IV. No person other than an employee of the company shall be allowed to move any flashboard or gate in the structures belonging to this company, except in an extreme emergency or by permission given in writing.

Rule V. The company claims the right to provide water to tracts aggregating 5,500 acres, and if the applicants for water in any year fall short of that acreage, the company has the right to grant additional applications to that extent.

DECISION No. 2041.

IN THE MATTER OF THE APPLICATION OF LOOKOUT MOUNTAIN PARK LAND AND WATER COMPANY FOR AUTHORITY TO ISSUE NOTES AND TO MORTGAGE ITS PROPERTY.

Application No. 1475.

Decided December 31, 1914.

Applicant authorized to issue its promissory notes of the aggregate face value of $25,000.00 for a period of ten years, said notes to be secured by first mortgage covering all of the property of applicant, and to be sold at not less than their face value, proceeds to be used to pay off applicant's present mortgage indebtedness.

F. M. Rublee, for Applicant.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Lookout Mountain Park Land and Water Company owns approximately 230 acres of land in Los Angeles County, near Hollywood, which it is subdividing for residential purposes. It estimates the value of this property at approximately $200,000.00. In connection with its real estate operations the applicant conducts a water utility business. It values its water plant at $3,500.00. At the time of the purchase of the tract, which originally embraced 280 acres, there was a mortgage upon the property for part of the purchase money in the sum of $57,270.00. This mortgage has now been reduced to a sum less than $25,000.00.

The applicant proposes to issue its note or notes in a sum not to exceed $25,000.00 for a term not exceeding ten years, at a rate of interest not exceeding 7 per cent, and to use the money for the purpose of paying off its present mortgage indebtedness. Any sums remaining thereafter will be applied upon the unsecured indebtedness of the applicant. A new mortgage will be executed to secure the new loan in the sum of $25,000.00.

It is the plan of the corporation to separate its utility business from its land business at an early date.

I recommend that the application be granted and submit the following form of order:

ORDER.

Lookout Mountain Park Land and Water Company having applied to this Commission for authority to issue note or notes not to exceed $25,000.00, for a term not exceeding ten years, at a rate of interest not exceeding 7 per cent;

And Lookout Mountain Park Land and Water Company having applied for authority to mortgage its property as security for said note or notes, and a hearing having been held, and it appearing that the purposes to which the money to be derived from said notes is to be applied are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Lookout Mountain Park Land and Water Company be granted authority and it is hereby granted authority to issue its note or notes in a sum not to exceed $25,000.00, for a term not exceeding ten years, at a rate of interest not exceeding 7 per cent per annum.

It is further ordered that Lookout Mountain Park Land and Water Company be granted authority and it is hereby granted authority to execute a mortgage of its property as security for said note or notes in the sum of $25,000.00.

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The authority herein given is given upon the following conditions and not otherwise:

(1) The note or notes herein authorized to be issued shall be issued only after the applicant shall have discharged of record the present mortgage upon its property so that the notes herein authorized to be issued shall be a first mortgage upon applicant's properties.

(2) The note or notes herein authorized to be issued shall be issued so as to net the applicant the face value thereof plus accrued interest.

(3) On or before June 30, 1915, the applicant herein shall report the note or notes issued under this authorization, the parties to whom issued, the rate of interest of said notes and the maturities thereof; and the applicant shall file with this Commission on or before June 30, 1915, a copy of the mortgage herein authorized to be issued.

(4) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

(5) The authority herein granted shall apply to such notes as shall have been issued on or before June 30, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1914.

DECISION NO. 2042.

IN THE MATTER OF THE COMPLIANCE BY OIL PIPE LINES WITH PROVISIONS OF CHAPTER 327 OF THE LAWS OF 1912, DECLARING CERTAIN CORPORATIONS, ASSOCIATIONS AND INDIVIDUALS TO BE COMMON CARRIERS AND PUBLIC UTILITIES SUBJECT TO THE PROVISIONS OF THE PUBLIC UTILITIES ACT.

Application No. 450.

Decided December 31, 1914.

The above investigation was instituted upon the Commission's own motion to determine which of certain oil pipe line companies are subject to the jurisdiction of the Commission under the provisions of chapter 327, laws of 1913, and after a thorough investigation of the various pipe line companies operating within this state it is found as a fact that the following companies operate pipe lines used and useful to the general public, which pipe line companies shall be considered as common carriers subject to the jurisdiction of this Commission: Standard Oil Company, Associated Oil Company, Producers' Transportation Company, Associated Pipe Line Company, and General Pipe Line Company of California. These companies are directed to file with the Commission their schedules of rates and rules and regulations governing the transportation of oil from points in the San Joaquin Valley oil fields.

Pillsbury, Madison & Sutro, for Standard Oil Company.

Edmund Tauszky, for Associated Oil Company.

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Edmund Tauszky, Stanley Moore and *H. C. Booth,* for Associated Pipe Line Company, Salt Lake Oil Company of California, Amalgamated Oil Company.

T. O. Toland, L. W. Andrews and *Paul N. Gregg,* for Producers Transportation Company.

T. O. Toland and *L. W. Andrews,* for Union Oil Company of California, Puente Oil Company, Mission Transportation and Refining Company, Columbia Oil Producing Company.

Chas. W. Slack and *E. L. Weil,* for General Pipe Line Company of California.

Paul N. Gregg, for Pinal Dome Oil Company.

L. A. Phillips, for Coast Oil Transport Company, Refining and Producing Oil Company, and Graciosa Oil Company.

Geo. W. Lane, for Independent Oil Producers Agency.

John Martin, for Midway Gas Company.

A. L. Hilborn, for Palmer Union Oil Company.

J. T. F. Bayertz, for Murphy Oil Company.

T. O. Turner, for Pacific Pipe Line Company.

Francis J. Heney and *James A. Farraher,* for Independent Oil Producers and Consumers League.

REPORT OF THE COMMISSION.

This is a proceeding on the Commission's own motion to determine Whether certain oil pipe line companies are common carriers and public utilities subject to the provisions of the Public Utilities Act. This proceeding was instituted as a result of the passage of chapter 327 of the laws of 1913, which statute is here inserted in full:

An act declaring certain corporations, individuals, or association of individuals engaged, directly or indirectly, in the transportation of crude oil or petroleum or the products thereof, for hire or otherwise, to be common carriers and public utilities and subject to the provisions of the act known as the public utilities act of the State of California, approved December 23, 1911.

(Approved June 4, 1913.)

The people of the State of California do enact as follows:

SECTION 1. Every private corporation and every individual or association of individuals:

(*a*) Owning, operating, managing or controlling any pipe line or any part of any pipe line, plant or equipment within the State of California for the transportation of crude oil or petroleum or the products thereof, either directly or indirectly, to or for the public, for hire, compensation or consideration of any kind, paid, given, extended or received, directly or indirectly, for such transportation, or engaged, directly or indirectly, in the business of so transporting the same; or

(*b*) Owning, operating, managing or controlling any pipe line or any part of any pipe line, plant or equipment for the transportation of crude oil, petroleum or the products thereof, directly or indirectly, to or for the public, for hire, compensation or consideration of any kind, paid or received, directly or indirectly, for

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such transportation, and which said pipe line, plant or equipment is constructed or maintained upon, along, over or under any public highway, and in favor of whom the right of eminent domain exists; or

(c) Owning, operating, managing or controlling, directly or indirectly, any pipe line or pipe lines, or any part of any pipe line or pipe lines, plant or equipment, or any pipe line system or any part thereof, for the transportation, directly or indirectly, to or for the public, for hire or otherwise, of crude oil, petroleum or products thereof, and which said pipe line, or pipe lines, or plant or equipment, or system, is, or are, constructed, operated or maintained across, upon, along, over or under the right of way of any railroad corporation or other common carrier required by law to transport crude oil, petroleum or products thereof as a common carrier; or

(d) Owning, using, operating, managing or controlling, directly or indirectly, or participating in the ownership, use, operation, management or control, directly or indirectly, under lease, contract of purchase, agreement to buy and sell, or other contractual or tacit agreement or arrangement of any kind or character whatsoever, of any pipe line, or pipe lines, or any part of any pipe line, or pipe lines, plant or equipment, or pipe line system, or any part of any pipe line system, for the transportation of crude oil, petroleum or the products thereof, of and from, or of, or from any oil field or place of production within the State of California, to any distributing, refining, or marketing center or reshipping point therefor within said state, whereby, or under, or through which, directly or indirectly, such corporation, or any corporation or association of corporations, or individual, or association of individuals secures, or is enabled to secure, or attempts to secure, or tends to secure the control of, or monopoly of the purchasing of, or the control of, or monopoly of the transportation of such crude oil, petroleum or the products thereof,

Is hereby declared to be a common carrier and subject to the provisions of the act known as the "Public Utilities Act," approved December 23, 1911.

SEC. 2. Every corporation organized and existing under the laws of the State of California or under the laws of any other state to transport, or to engage in the business of transporting, within the State of California, any crude oil, petroleum or the products thereof, or for the purpose of acquiring, constructing, leasing, owning, maintaining or operating, directly or indirectly, or of controlling or participating in the control of any pipe line or pipe lines with pumping station or stations, or other appurtenant equipment or plant constructed and maintained, or to be constructed or maintained for the transportation of crude oil, petroleum or the products thereof, actually engaged or engaging in such operation or transportation, directly or indirectly, or shares, directly or indirectly, in the business of such operation or transportation, is hereby declared to be a common carrier and subject to the provisions of the "Public Utilities Act" of the State of California, approved December 23, 1911.

SEC. 3. Any pipe line constructed, acquired, owned, operated, maintained, managed or controlled by any private corporation or individual or association of individuals for any of the purposes or under any of the conditions specified in section 1 or section 2 of this act, is hereby declared to be a public utility and subject to the provisions of the "Public Utilities Act" of the State of California, approved December 23, 1911.

SEC. 4. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SEC. 5. The provisions of this act are not to be construed as applying to any corporation, individual or association of individuals where the nature and extent of their business is such that the public needs no use in the same, and the conduct of the same is not a matter of public consequence.

The order instituting this proceeding was made by the Commission on August 11, 1913. That order referred to the passage of chapter 327 of

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the laws of 1913 and stated that it was now the duty of the Commission to determine what corporations, associations and individuals are subject to the provisions of that act, and to require such corporations, associations and individuals to comply fully with the provisions thereof. The order then stated that after a preliminary investigation it appeared that certain specified corporations may possibly be subject to the provisions of said act, and ordered such corporations to appear before the Commission at a specified time and place "to show cause why the Railroad Commission should not make its order requiring each of said companies to file with this Commission schedules of their rates and charges for the transportation of crude oil and petroleum or the products thereof, and their rules and regulations in connection with such transportation, and otherwise to comply fully with said chapter 327 of the laws of 1913." The following companies were named in this order:

Standard Oil Company.
Producers Transportation Company.
Associated Oil Company.
Union Oil Company of California.
General Pipe Line Company of California.
Pinal-Dome Oil Company.
Puente Oil Company.
Central Oil Company.
Home Oil Company.
Graciosa Oil Company.
San Luis Obispo Company.
Refining and Producing Oil Company.
Coast Oil Transport Company.
Mission Transportation and Refining Company.
Associated Pipe Line Company.
Salt Lake Oil Company of California.
Amalgamated Oil Company.
Central Oil Company of Los Angeles.
Palmer Union Oil Company.

To this list the following companies were added and brought into the proceeding by subsequent orders of the Commission:

Columbia Oil Producing Company.
Murphy Oil Company.
Pacific Pipe Line Company.
Midway Gas Company.
Independent Oil Producers Agency.
San Luis Obispo Mutual Oil Company.
Pinal-Dome Refining Company.
Bard Oil and Asphalt Company.

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In response to this order the Standard Oil Company, on August 14, 1913, filed with the Commission complete schedules of rates and regulations for the transportation of oil through all of the company's lines in the State of California. The company stated that it would, after August 10, 1913, engage in the business of transporting crude oil or petroleum through its pipe lines as a common carrier. These schedules were filed and the system operated as a common carrier, however, under protest against the reasonableness or validity of chapters 285, 286 and 327 of the laws of 1913, being the so-called oil pipe line statutes.

On August 27, 1913, in the case of *Kern Trading and Oil Company and Associated Oil Company* vs. *Associated Pipe Line Company, Attorney General, Railroad Commission, et al.*, a temporary restraining order was obtained from the District Court of the United States in and for the Northern District of California enjoining the Associated Pipe Line Company from complying with the provisions of chapters 285, 286 and 327 of the statutes of California for the year 1913, and also enjoining the other defendants, including the Railroad Commission, from enforcing against that company the provisions of any of these statutes. The constitutionality of these statutes, including chapter 327, under which this proceeding of the Commission is instituted, was challenged in that case upon several grounds. On September 14, 1914, Circuit Judges Gilbert and Morrow and District Judge Dooling, speaking through the latter, rendered their final decision in the case. The court declined to hold that any of these statutes were unconstitutional and refused to enjoin the Associated Pipe Line Company from complying with the provisions thereof. Inasmuch, however, as the bill of complaint averred that the penalties provided for noncompliance with these statutes and the license fees prescribed by chapters 285 and 286 were so severe as to deter the companies from testing the constitutionality of these statutes by the ordinary procedure in the State Supreme Court, the Federal Court enjoined the attorney general, the Railroad Commission and its attorney from enforcing against the Associated Pipe Line Company any of the penalties or licenses, except the primary fee of $250.00 which, under these statutes, "have accrued or may accrue at any time before the validity of said pipe line acts have been finally passed upon by the courts of the State of California."

A number of hearings have been held at which testimony has been introduced before the Commission upon the question whether the companies which are parties to this proceeding come within the provisions of chapter 327 of the laws of 1913 and are subject to the Public Utilities Act. This case is now ready for the findings and order of the Commission.

The record in this case shows that certain of these companies are not engaged in the transportation of any crude oil, petroleum or the prod-

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ucts thereof. It is not necessary, therefore, to further consider such companies. The record shows and we find as a fact, that the remaining companies, namely, Standard Oil Company, Producers Transportation Company, Associated Oil Company, Associated Pipe Line Company, General Pipe Line Company of California, Union Oil Company of California, Pinal-Dome Oil Company, Home Oil Company, Salt Lake Oil Company of California, Amalgamated Oil Company, Central Oil Company of Los Angeles, Columbia Oil Producing Company, Murphy Oil Company and Bard Oil and Asphalt Company, are organized and existing under the laws of the State of California to engage in the business of transporting within the State of California crude oil, petroleum or the products thereof, and are actually engaged in such transportation.

We shall summarize briefly the evidence relating to the operations of each of these companies, and thereafter consider whether the nature and extent of their business is such that the public needs a use in the same, and the conduct of the same is a matter of public consequence. Before doing so, however, we call attention to the location of the oil fields in California. These fields naturally divide themselves into two territories: those in the San Joaquin Valley in and around Bakersfield and Coalinga, and those along the coast in Santa Barbara, Ventura, Los Angeles and Orange counties. The names of the fields in these two territories and their relative production are indicated by the following report of the production for the month of July, 1913:

San Joaquin Valley

Name of field	Number of barrels	
Coalinga	1,617,081	
Kern River	766,754	
Maricopa	497,126	
Midway	2,692,001	
McKittrick	366,645	
Belridge	189,610	
Lost Hills	287,646	
Total		6,416,863

Coast

Santa Maria	423,935	
Fullerton	518,646	
Salt Lake	237,075	
Whittier	68,155	
Coyote	249,421	
Ventura	73,374	
Newhall	8,621	
Los Angeles	26,905	
Summerland	4,350	
Total		1,610,482
Total for state		8,027,345

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It is impossible to entirely segregate the testimony with reference to each company, but we shall endeavor to do so as far as is necessary to give a complete understanding of the operations of each company.

Standard Oil Company.

Standard Oil Company, formerly known as Pacific Coast Oil Company, was incorporated on September 7, 1879. This company now handles approximately 30 per cent of the total crude petroleum production of the state. The company has refineries at Richmond, Contra Costa County; at El Segundo, near Redondo, in Los Angeles County; and at Seguro, near Bakersfield, in Kern County. These refineries are operated continuously, and the greater part of the refined oil is sold in the Orient. The company also markets its production in the Pacific coast states, Hawaiian Islands, British Columbia and the west coast of Central and South America.

The pipe line system of the company had its inception in 1895 and has expanded with the development of the oil industry. The company at present has the following lines in operation:

1. Newhall to Ventura, a distance of 44.19 miles, 28.3 miles of which is a 3-inch line and the remainder a 2-inch line. The capacity of this line is 1,400 barrels per day.

2. A double 8-inch line from Bakersfield to Richmond, a distance of 280.6 miles. The capacity of this double line is 65,000 barrels per day.

3. A branch of the Bakersfield-Richmond line has been constructed from Coalinga to Mendota, a distance of 29.2 miles. This branch is an 8-inch line with a capacity of 28,000 barrels per day.

4. Another branch of the Bakersfield-Richmond line has been constructed from Lost Hills to Pond. This is an 8-inch line 21.1 miles in length and has a capacity of 20,000 barrels per day.

5. A double 8-inch branch line from Midway to Bakersfield, a distance of 32.2 miles. The capacity of this double line is 65,000 barrels per day.

6. A 6-inch line from Northan to El Segundo, on the coast of Los Angeles County, a distance of 23.9 miles, with a capacity of 9,000 barrels per day.

7. An 8-inch line from Orcutt to Port San Luis, on the coast of San Luis Obispo County, a distance of 32.52 miles, with a capacity of 20,000 barrels per day.

Each of these seven lines crosses public highways. Each of these lines, except the Coalinga-Mendota line, crosses railroad rights of way. The Bakersfield-Richmond line also runs along railroad rights of way for short distances.

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The Standard Oil Company does not, itself, produce all the oil transported by it. By far the greater part of the oil transported is purchased in the fields from other producers. For instance, of the 65,000 barrels per day transported through the Bakersfield-Richmond line only 39,000 barrels are produced by the Standard Oil Company. The 65,000 barrels per day carried through the Midway-Bakersfield branch include only 35,000 barrels of Standard Oil production.

While the Coalinga-Mendota line has a capacity of 28,000 barrels per day, it is carrying only 23,000 barrels per day, the remainder of the production in this field being handled through other pipe lines. Yet, of this 23,000 barrels the Standard Oil Company produces only 2,000. The Lost Hills-Pond branch is now carrying only 5,000 barrels per day, of which the Standard Oil Company produces 1,500. The company purchases a large amount of oil which is temporarily placed in storage. In fact, the Standard Oil Company purchases in the San Joaquin Valley fields 50,000 barrels per day in excess of its own production in these fields.

Referring now to the lines of the Standard Oil Company from the coast fields, the record shows that the Newhall-Ventura line is being operated to its full capacity of 1,400 barrels per day, of which the Standard Oil Company, itself, produces only 200 barrels. The Northan-El Segundo line is carrying its full capacity of 9,000 barrels per day, of which the Standard Oil Company produces 6,000. The Orcutt-Port San Luis is at present carrying only 200 barrels per day, none of which is produced by the Standard Oil Company.

Producers Transportation Company.

An understanding of the operation of this company requires a short review of the history of its organization by the Independent Oil Producers Agency in 1904. The Independent Oil Producers Agency was formed by a number of independent oil producers in the Kern fields, who united for the purpose of forming an organization which would represent a sufficiently large oil production to attract capital to construct a pipe line from the oil wells to the market, and also for the purpose of marketing their oil to the best advantage. At that time the independent producer in the Kern fields was absolutely at the mercy of the Standard Oil Company and the Associated Oil Company. These companies owned the only pipe lines transporting oil from those fields. The independent producer had to either sell his oil to these companies at prices named by them, or else not sell his oil at all. The same condition exists in the Coalinga fields, with the result that many of the producers, being unable to procure what they considered to be a fair contract price for the transportation of their oil, were compelled to take the only other alternative and shut down their wells. These con-

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ditions prompted the formation of the Coalinga Oil Producers Agency in 1907, which was later absorbed by the Independent Oil Producers Agency.

On August 1, 1913, the Independent Oil Producers Agency had 175 members. These members were producers in the Coalinga, Kern, McKittrick, Midway and Maricopa fields. The agency represents a production of 1,500,000 barrels of fuel oil per month, which is approximately 22 per cent of the state's entire production.

The Independent Oil Producers Agency procured the formation of the Producers Transportation Company on June 10, 1909, with an authorized capital stock of the par value of $7,000,000.00. An arrangement was made between the Producers Transportation Company and the Union Oil Company of California for the financing of a pipe line to be constructed from the oil fields in the San Joaquin Valley to the coast. The Union Oil Company of California, hereinafter called the Union Oil Company, furnished to the Producers Transportation Company the sum of $3,500,000.00 to be used in the construction of such a line. The Producers Transportation Company delivered to the Union Oil Company $6,999,300.00 par value of its stock, being all of the stock except seven shares, qualifying directors, and also delivered to the Union Oil Company $3,500,000.00 face value of bonds. Under this arrangement the Producers Transportation Company constructed, and now has in operation, the following pipe line system:

1. Eight-inch line about 40 miles from the Coalinga fields south to a point known as Junction station, in Kern County.
2. Eight-inch line about 40 miles from the Maricopa fields north through the Midway and McKittrick fields to Junction station.
3. Eight-inch line about 30 miles from the Kern River fields west to McKittrick.
4. Six-inch line about 30 miles from the Lost Hills fields west to Junction station.
5. Six-inch line about 4 miles from the Belle Ridge fields northeast connecting with the McKittrick-Junction station line.
6. A double 8-inch line about 70 miles from Junction station west to Port Harford on the coast of San Luis Obispo County.

This pipe line system is constructed across public highways in Fresno, Kings, Kern and San Luis Obispo counties. The company has a franchise from the county of San Luis Obispo and from the city of San Luis Obispo for the construction of its pipe line along certain highways in said county and city. The pipe lines of this company also run along the right of way of the Southern Pacific Railroad Company and the Pacific Coast Railway Company for an aggregate distance of approximately 5 miles.

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On December 18, 1909, the company obtained a judgment and decree in condemnation in the case of *Producers Transportation Company* vs. *Gaspar O. Marre et al.*, an eminent domain proceeding instituted in the superior court of San Luis Obispo County. The complaint of the Producers Transportation Company in that proceeding alleges that "plaintiff is engaged in the business of transporting oil by means of pipe lines as a common carrier for hire."

We shall now briefly consider the operations of the Producers Transportation Company. That company, itself, produces no oil. It has confined its operations to carrying oil delivered to it by the Independent Oil Producers Agency. Each member of the agency owns one share of stock in the agency. The Union Oil Company is a member of the agency and produces a far greater amount of oil than any other member. Each member of the agency is required to sign a ten-year contract, by which he agrees to deliver to the agency, for sale, all of the petroleum produced by him on specified lands. This contract runs with and binds the lands of the producer for the full performance of the provisions of the contract. On June 11, 1909, a contract was made between the agency and the Producers Transportation Company whereby the latter was given the exclusive right, for a period of ten years, to transport at specified rates, all fuel oil of the agency. A similar contract was required between the Producers Transportation Company and each member of the agency. The members of the agency can not, under the provisions of these contracts, transport fuel oil produced by them except through the lines of the Producers Transportation Company. On June 24, 1909, a contract was made between the agency and the Union Oil Company, whereby the latter was made the exclusive sales agent, for a period of ten years, of all the fuel oil of the agency. The Union Oil Company receives a commission for acting in this capacity. This contract provides for an arbitration committee consisting of four members, which committee shall "determine all questions or matters which may arise under, respecting or in any way connected with this contract."

The contract further provides that this arbitration committee is to consist of two members appointed by the Union Oil Company and two members appointed by the agency. On April 1, 1912, a contract was made between the agency and the Union Oil Company, whereby the latter agreed to provide ten million barrels storage capacity for the agency during a period of excessive production. In this contract the agency agreed, among other things, that it would take no new members during the term of the contract without the consent of the Union Oil Company.

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The Producers Transportation Company owns no facilities for carrying the oil from Port Harford. The oil is handled from this point by vessel owned or chartered by the Union Oil Company, and an additional charge is made by that company for the use of these vessels.

Associated Oil Company.

The Associated Oil Company, which was incorporated on October 5, 1901, with power to pipe and carry oil and also to exercise the right of eminent domain, now owns and operates two oil pipe lines, as follows:

1. An 8-inch line from the Santa Maria fields to Gaviota, on the coast of Santa Barbara County, a distance of 30 miles. There is an 8-mile branch from this line running to the Cat Canyon fields.
2. A 6-inch line from the Coalinga fields to Monterey, on the coast of Monterey County, a distance of 105 miles.

Both of these lines are constructed along public highways and also across railroad rights of way.

The main Gaviota line has a capacity of 15,000 barrels per day and is used to capacity for the transportation of oil, none of which is produced by the Associated Oil Company. The branch line from the Cat Canyon fields is not now in operation. The Associated Oil Company and the Union Oil Company each own one half of the stock of the California Coast Oil Company, which produces about 30,000 barrels of oil per month in fields served by the Gaviota line. The oil produced by the California Coast Oil Company is taken in alternate months by the two controlling companies.

The Monterey line is operated to its full capacity of 15,000 barrels per day. Of this amount the Associated Oil Company only produces 2,000 barrels per day. The Associated Oil Company has contracts for the purchase of oil in all the San Joaquin Valley fields except the Kern fields. Some oil is purchased in the latter field on the market. Upon arrival at Monterey the oil is reshipped by rail or vessel to the most advantageous markets.

Oil produced by the Associated Oil Company and tied up to that company by contracts amounts to about 22 per cent of the entire production of the state.

Associated Pipe Line Company.

On April 15, 1907, the Associated Oil Company and the Kern Trading and Oil Company entered into an agreement for the organization of the "Associated Pipe Line Company," to transport oil for the two organizers, each of which would be entitled to use one half of the capacity of the lines operated by the Associated Pipe Line Company. On August 20, 1907, the Associated Pipe Line Company was incorporated "for the acquisition, construction, leasing, owning, maintenance

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and operation, but not as a common carrier, of pipe lines for the transportation of oil within the State of California." This company now has in operation two lines:

1. An 8-inch line, known as the "Rifled" line, from Volcan, a station about three miles east of Bakersfield, in Kern County, to Port Costa, on the coast of San Francisco Bay, a distance of approximately 281 miles.

2. An 8-inch line known as the "Hot" line, from the Sunset-Midway fields, in Kern County, to Port Costa, a distance of approximately 278 miles.

The Rifled line is constructed entirely upon railroad rights of way. It is constructed along the right of way of the Southern Pacific Railroad Company from Volcan to Goshen, then along the Central Pacific Railway Company's right of way from Goshen to Fresno, and for the remainder of the distance is constructed upon the right of way of the Southern Pacific Railroad Company. The line also crosses a number of public highways. The capacity of the line is 13,000 barrels per day.

The Hot line is constructed along the right of way of the Southern Pacific Railroad Company from Mendota to Port Costa, a distance of approximately 140 miles. The line crosses a number of highways, and in Kern County runs along a public highway for a short distance. The capacity of this line is 26,000 barrels per day.

The lines of the Associated Pipe Line Company are used to full capacity, one half by the Kern Trading and Oil Company and one half by the Associated Oil Company, each of which companies owns 50 per cent of the stock of the pipe line company. The Kern Trading and Oil Company is a subsidiary of the Southern Pacific Company, which owns all of its stock except qualifying shares for directors. The Southern Pacific Company also owns 51 per cent of the stock of the Associated Oil Company.

All the oil carried through these lines for the account of the Kern Trading and Oil Company is produced by that company, and is delivered to, and consumed by, the Southern Pacific Company. Before the production of the Kern Trading and Oil Company was equal to one half of the capacity of these lines it purchased oil in the fields from other producers, including the Associated Oil Company, the oil thus purchased being carried through the Associated Pipe Line Company's lines.

The oil carried through these lines to the account of the Associated Oil Company is either produced or purchased by that company in the fields. In the fields tributary to the lines of the Associated Pipe Line Company, the Associated Oil Company produces about 16,500 barrels per day and in addition purchases about 30,000 barrels per day. Approximately 20,000 barrels per day are delivered by the Associated

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Oil Company to the Associated Pipe Line Company for transportation. All the oil of the Associated Oil Company transported through these lines is sold by the Associated Oil Company on the market.

General Pipe Line Company of California.

The General Pipe Line Company of California, hereinafter called the General Pipe Line Company, was incorporated February 28, 1912, with power "to carry on the business of transporting for hire petroleum and other mineral oils, by means of pipe lines." The company was also given the power to "condemn" property. The General Pipe Line Company now owns and operates a main and branch oil pipe line as follows:

1. Main Line: An 8-inch line from the Midway fields in Kern County, south over the Tehachapi mountains to San Pedro in Los Angeles County, a distance of 156 miles.

2. Branch Line: An 8-inch line from Lebec, in Los Angeles County, east of Mojave in Kern County, a distance of 51.82 miles.

The capacity of the main line and of the branch line is from 25,000 to 30,000 barrels per day.

The main line is constructed upon and crosses railroad rights of way. This pipe line system is also constructed along public highways. The company has received franchises for the construction of its lines from Los Angeles County and the cities of Los Angeles, Huntington Park, San Fernando, Burbank, Vernon, Tropico, Glendale and Newhall. Ordinance No. 24874, new series, of the city of Los Angeles, being the franchise under which the General Pipe Line Company has constructed its line within that city, provides in section 17 "that the pipe line system constructed, operated and maintained under said franchise, shall be deemed to be a public utility and shall be operated as a public utility at all times," and provided, further, that the city of Los Angeles should have the right to fix the rates to be charged for carrying oil through said pipe line system. Substantially the same provision is contained in section 11 of Ordinance No. 26295, new series, of the city of Los Angeles granting to the General Pipe Line Company certain rights in Los Angeles harbor. Ordinance No. 299, new series, of the county of Los Angeles, granting the franchise under which the General Pipe Line Company constructed its lines in said county, provides in section 4, "That the grantee of this franchise shall supply oil of sufficient quality and quantity upon application to any manufacturing or industrial concern located on the route of said pipe line, upon paying the necessary cost of making connections with the pipe line and the reasonable market value of the oil, and shall supply oil at any place upon said pipe line

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to the county of Los Angeles upon the same conditions." Substantially similar provisions are contained in the franchises granted by the cities of Burbank, San Fernando and Huntington Park.

The General Pipe Line Company has constructed its line through the Santa Barbara National Forest under permit from the Department of the Interior, and along the outer breakwater at San Pedro under permit from the Department of War of the Federal Government.

The General Pipe Line Company, itself, produces no oil. The company has entered into a contract to transport the oil of the General Petroleum Company, which company completely controls the General Pipe Line Company. The General Petroleum Company, itself, produces approximately 9,000 barrels of oil per day from lands tributary to the lines of the General Pipe Line Company. The remainder of the capacity of the lines of this company is used to transport oil purchased by the General Petroleum Company. The General Petroleum Company controls, through production and purchase, from 10 to 12 per cent of the entire production of the state.

Union Oil Company of California.

The operations of the Union Oil Company of California, hereinafter called the Union Oil Company, as a member of the Independent Oil Producers Agency and as the marketing agent for that agency, have already been considered. In addition to these operations the Union Oil Company operates pipe lines in Los Angeles, Ventura, Santa Barbara and San Luis Obispo counties. These pipe lines are owned by the Union Transportation Company and the Mission Transportation and Refining Company, all of the stock of which companies, except qualifying shares, is owned by the Union Oil Company. The lines are leased to, and operated by, the Union Oil Company. A description of these lines is set forth in Exhibit "H" of the Union Oil Company, as follows:

Name	Size	Length in miles	From	To	Owned by	Operated by
Lompoc Pipe Line	6 inch 8 inch	32.47 32.47	Orcutt	Port San Luis.	Union Transportation Company.	Union Oil Company.
		64.94				
Ventura Pipe Line	3 inch 4 inch 4 inch	9.75 23.00 10.00	Fillmore Sespe Ventura	Sespe. Ventura. Oxnard.	Mission Transportation and Refining Company.	Union Oil Company of California.
		42.75				
Los Angeles Pipe Line.	6 inch 6 inch 8 inch 8 inch 6 inch	9.48 14.26 10.96 7.96 9.41	Stewart Los Angeles Sherman Norwalk Bixby	Norwalk. Norwalk. Los Angeles. Bixby. E. San Pedro.	Mission Transportation and Refining Company.	Union Oil Company of California.
		51.37				

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These lines are constructed along and across public highways. Franchises for their construction have been granted by the counties of Los Angeles, Santa Barbara, Ventura, San Luis Obispo, and also by the cities of Los Angeles and Long Beach. A portion of the Santa Barbara County line is constructed upon the right of way of the Pacific Coast Railway Company and a portion of the Los Angeles County line is constructed upon the right of way of The Atchison, Topeka and Santa Fe Railway Company.

The answer filed by the Union Oil Company states that that company "has transported and does transport crude petroleum in the excess capacity of said Los Angeles County and said Santa Barbara County lines—remaining after all of the requirements of this respondent have been met—under private contract, on specific terms for a reasonable compensation." The company is at present carrying oil for others under contracts as follows: (1) A contract executed January 21, 1908, between Albert M. Stephens, Margarita Guinardo Dallugge, Adolph Ramish, Martin C. Marsh and the Union Oil Company, by which the latter agrees for a period of ten years to carry through its lines to Los Angeles, at a stated compensation, oil produced by the former upon a certain tract of land. (2) Contract executed July 1, 1908, between Emma Summers, Callie M. Parker and the Union Oil Company, whereby the latter agrees for a period of approximately nine years to carry oil at a stated compensation from the Fullerton field through its lines to Los Angeles. (3) Contract executed February 26, 1901, in which the Union Oil Company agrees to transport, for stated compensation, the oil of the Columbia Oil Producing Company produced upon a certain tract in Orange County. The Union Oil Company has also in the past transported, for compensation, oil of various other producers.

Salt Lake Oil Company of California.

Salt Lake Oil Company of California was incorporated on November 25, 1903, with power "to transport and carry for hire" oils, petroleum and the products thereof. All of the stock of this company, except qualifying shares, is owned by Amalgamated Oil Company. The Salt Lake Company owns and operates an 8-inch line from the Salt Lake fields into the city of Los Angeles, a distance of approximately 10½ miles. This line is constructed along public highways under franchises from Los Angeles County and the city of Los Angeles, and also crosses the right of way of the Southern Pacific Company. The capacity of the line is 7,500 barrels per day. All the oil transported through this line is delivered to the Amalgamated Oil Company in Los Angeles.

While this line is owned by the Salt Lake Oil Company of California, it is used to transport, not only the oil of that company, but also oil produced or purchased by the Amalgamated Oil Company and oil produced by the Arcturus Oil Company, all of the stock of which, except

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qualifying shares, is owned by the Amalgamated Oil Company. Each of these companies, while its own oil is being transported through the line, assumes complete charge thereof, and pays the entire expense of the labor and power used to pump the oil through the line.

Amalgamated Oil Company.

The Amalgamated Oil Company was incorporated on October 14, 1904. A majority of the stock of this company is owned by the Associated Oil Company. The Amalgamated Oil Company owns and operates a line about 6½ miles in length, which is constructed entirely within the limits of the city of Los Angeles. The line has been constructed along public highways under a franchise granted by the city of Los Angeles and is also constructed for a short distance along the right of way of The Atchison, Topeka and Santa Fe Railway Company. The main portion of the line is a 6-inch line, although there are branches of 3, 4 and 4½-inch lines. The capacity of the main line averages 9,000 barrels per day.

This line is used solely to transport oil produced or purchased by the Amalgamated Oil Company, and thereafter sold and distributed by that company.

Pinal-Dome Oil Company.

Pinal-Dome Oil Company owns and operates a 4-inch line 9 miles in length, with a capacity of 3,000 barrels per day. The line is used solely to transport oil produced by Pinal-Dome Oil Company from lands owned by it in the Santa Maria fields, in Santa Barbara County. The oil is carried to the company's own refinery at Betteravia, a station on the Pacific Coast Railway. At this point the oil is refined and marketed. The pipe line is constructed chiefly along a private right of way, although it crosses two public highways and also the right of way of the Pacific Coast Railway Company.

Columbia Oil Producing Company.

Columbia Oil Producing Company owns and operates a 3-inch line from the Fullerton fields, in Los Angeles and Orange counties, to Chino, a town about 16 miles east in San Bernardino County. There are two short branches of this line, each constructed of two-inch pipe. The capacity of the line is from 1,000 to 1,500 barrels per day. The line crosses public highways but is constructed over no rights of way. The company uses this line to transport only oil produced by its own wells. The oil is refined at the company's refinery at Chino and there marketed.

Murphy Oil Company.

This company owns and operates two 4-inch pipe lines: (1) The "Murphy" line from East Whittier to Los Nietos, a distance of 4.75 miles and having a capacity of 50 barrels of oil per hour, and (2) "Coyote" line from Coyote to Los Nietos, a distance of 6.34 miles and

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having a capacity of 100 barrels per hour. These lines cross public highways, but are constructed over no railroad rights of way and are used solely to transport the company's own oil.

Bard Oil and Asphalt Company.

This company owns and operates a 4-inch line from Ojai Valley in Ventura County, to the tracks of the Southern Pacific Company, in Santa Paula, a distance of 8½ miles. This line is constructed along public highways under franchises from Ventura County and the city of Santa Paula. The line has a capacity of from 100 to 250 barrels per day.

There are no other companies operating in this field except the Ojai Oil Company. The Bard Oil and Asphalt Company, in addition to carrying its own oil is transporting oil for the Ojai Oil Company.

Central Oil Company of Los Angeles.

This company operates a 4-inch line from its own wells in Los Angeles County to the tracks of the railroad, a distance of approximately 4½ miles, and carries only oil produced by it.

This completes the summary of the operations of each of the companies which, under the finding made above, are actually engaged in the business of transporting within this state crude oil or petroleum or the products thereof. We shall now consider the remaining question of whether the business is such that the public needs use in the same, and that the conduct of the same is a matter of public consequence under the provisions of section 5 of chapter 327 of the laws of 1913. We shall not here discuss the constitutionality of chapter 327 of the laws of 1913. While some of the companies which are parties to this proceeding have questioned the constitutionality of that act, that question is clearly one for the determination of the courts, and not this Commission. The constitutionality of that act will be assumed in this proceeding. We desire, however, in passing, to answer objections advanced against declaring oil pipe lines to be common carriers. Counsel for one of the larger companies frankly stated that he believed the oil pipe lines should be regulated, but objected to having them declared common carriers. His position is that certain of these lines were constructed with a view of transporting oil of certain gravities only, and are not adapted to carrying every kind and quality of oil. The objection was also made that it would be impracticable to require a line to transport oil of all gravities, as there would be an injurious mixing of oils of different gravities. If was further urged that producers who have outstanding contracts for the transportation should be allowed a priority if the lines are found to be common carriers. It appears to us, however, that these contentions do not go to the root of the power of the legislature to declare oil pipe lines to be common carriers. The declaration that they are common carriers does not

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preclude a regulatory body from authorizing a schedule of rates and rules which shall limit the carriage to certain specified gravities of oil or from authorizing rules which will prevent the injurious intermingling of oils of different gravities. In the same manner regulations may, if it is deemed proper, allow priorities in the transportation of oil to parties who have outstanding contracts for such transportation. These are all questions of regulation and do not, in our opinion, foreclose a declaration that oil pipe lines are common carriers.

In considering the monopolistic features of the oil pipe line business in California we desire first to refer to the history of the Producers Transportation Company. It was claimed that the presence of this company in the field prevented any monopoly in the oil pipe line business. The record, however, shows that while the Producers Transportation Company prevented monopoly in the oil pipe line business when that company was first created, it can not be expected to indefinitely exert that beneficent influence. The record is very specific that the time when the Independent Oil Producers Agency was formed in 1904, the Standard Oil Company and the Associated Oil Company enjoyed an absolute monopoly of the transportation of oil from the San Joaquin Valley fields. The independent producer was compelled to either sell his oil to these companies at prices named by them or else not sell his oil at all. The Independent Oil Producers Agency procured the formation of the Producers Transportation Company which constructed a pipe line from these oil fields to the Pacific Coast and in so doing unquestionably afforded to the independent producer a measure of relief from the existing monopoly. Let us consider for a moment, however, the conditions under which this company operates at present. If an independent producer desires to transport his oil over the line of the Producers Transportation Company he must fulfill several requirements. He must sign a ten-year contract to turn over to the Independent Oil Producers Agency all the oil produced by him upon certain defined lands. This contract runs with and bonds the land as a guarantee of his fulfillment of the provisions thereof. He must agree that during the term of this contract the Producers Transportation Company shall be the exclusive carrier of his oil. He must consent to have the Union Oil Company the exclusive sales agent for his oil. The Union Oil Company is also a member of the agency and owns all of the stock, except qualifying shares, of the Producers Transportation Company. He must agree that the Union Oil Company and the agency may each appoint two members of an arbitration committee which shall decide all questions relating to the marketing of his oil. The record further shows that this same Union Oil Company was able, during a certain period of excessive production, when it furnished to

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the agency certain storage facilities, to require the agency to agree to take in no new members without the consent of the Union Oil Company. During this period the Union Oil Company had an absolute veto power upon the selection of new members for the agency. We set forth these facts at length in order to show the requirements which must be fulfilled by any producer desiring to avail himself of the privileges of the Producers Transportation Company line. With these requirements imposed upon the independent producer the opportunity for him to escape the monopoly by joining the agency is not, in our opinion, entirely clear. He is required to comply with conditions which would never be imposed by oil pipe lines which are common carriers. He is required to turn over to others the handling and sale of his oil. Under these conditions we can not agree that the Producers Transportation Company absolutely precludes the possibility of a monopoly existing in the oil pipe line business in California.

In addition to the Producers Transportation Company there are four other companies operating pipe lines from the San Joaquin Valley fields, namely, Standard Oil Company, Associated Oil Company, Associated Pipe Line Company and General Pipe Line Company of California. Only two of these companies—the Standard Oil Company and the Associated Oil Company—produce any of the oil transported by them. Even in these cases the amount of oil produced is far less than the amount of oil purchased and transported. The Standard Oil Company purchases 50,000 barrels per day in excess of its production in these fields. The Associated Oil Company produces only 2,000 barrels of the 15,000 barrels per day transported through its Monterey line. This company also purchases oil which is transported through the line of the Associated Pipe Line Company.

None of these companies, themselves, consume the oil transported. All the oil carried through the lines of the Associated Pipe Line Company for the account of the Kern Trading and Oil Company is sold to, and consumed by, the Southern Pacific Company. All of the oil carried through these lines of that company for the account of the Associated Oil Company and all the oil transported through the lines of the Standard Oil Company, the Associated Oil Company, Producers Transportation Company and the General Pipe Line Company is sold upon the market.

The record clearly shows that these pipe lines are the only efficient means of conveying oil from the San Joaquin Valley fields to the markets. The oil of the independent producer is being purchased in the fields by the large oil companies and then transported to the market through these pipe lines. The oil markets are at great distances from the producing wells. The independent producer can not, himself, construct a line to carry his oil. The expense of constructing such a

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line is prohibitive. For this reason the oil pipe lines have an advantage over the independent producer. If the oil of the independent producer is to reach the market at all, it must be transported through one of these pipe lines. To have his oil transported, he must sell it in the field to one of the large oil companies.

Under these circumstances it would naturally be expected that the oil pipe line companies could dictate the prices at which the independent producer should sell his oil to them. The record shows the companies are doing this very thing. There is a remarkable uniformity in the price offered by all of these companies for the oil of the independent producers. The record is specific that the General Petroleum Company adopts the price named by the Standard Oil Company; that representatives of the Associated Oil Company and the Union Oil Company frequently confer upon the price to be offered the independent producer, and that no company has ever underbid a price named by the Associated Oil Company. In our opinion these facts relative to the price offered for the oil of the independent producer could not exist under free competition in the bidding for that oil. It is clearly evident that these large oil companies in the San Joaquin Valley control the price at which the independent producer is required to sell his oil to them.

The control of the oil production in this state has an important bearing upon the question of monopoly in the oil pipe line business. The record shows that of the state's entire production the Standard Oil Company controls 30 per cent, the Associated Oil Company 22 per cent, the Independent Oil Producers Agency, which controls the Producers Transportation Company line, 22 per cent, the General Petroleum Company which controls the General Pipe Line Company of California 11 per cent and the Kern Trading and Oil Company, which uses one half of the capacity of the lines of the Associated Pipe Line Company, 10 per cent. Ninety-five per cent of the entire oil production of this state is controlled by these five companies. By far the greater portion of this oil is purchased by these companies from the independent producer in the fields. These companies have become the exclusive buyers of the oil of the independent producer. The complete control which these companies may exert over the independent producer in the disposition of his oil is obvious. We find as a fact that Standard Oil Company, Associated Oil Company, Producers Transportation Company, Associated Pipe Line Company and General Pipe Line Company of California have secured the control and monopoly of the transportation of crude oil, petroleum and the products thereof from the San Joaquin Valley oil fields.

The purpose of chapter 327 of the laws of 1913 is to terminate and prevent a monopoly in the oil pipe line business. After defining what

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corporations, individuals or association of individuals engaged in the oil pipe line business are common carriers and public utilities, section 5 excepts from the provisions of the act companies, individuals and association of individuals, when the nature and extent of their business is not of public interest or consequence. The five companies serving the San Joaquin Valley fields can not be regarded as coming within this exception. We therefore further find as a fact that the nature and extent of the business of the Standard Oil Company, Associated Oil Company, Producers Transportation Company, Associated Pipe Line Company and General Pipe Line Company of California are such that the public needs a use in the same and the conduct of the same is a matter of public consequence.

We shall now consider the pipe lines which carry oil from the coast fields. The record contains practically no evidence relative to the existence of a monopoly or public need in the use of these lines. The Standard Oil Company and Associated Oil Company each has a line, and the Union Oil Company has two lines from the fields in Santa Barbara County to Port San Luis, a distance of approximately thirty-two miles. The production in these fields is rapidly decreasing. While the capacity of the Standard Oil Company line is 20,000 barrels per day, only 200 barrels per day are being carried through that line. A line from these fields formerly operated by the Graciosa Oil Company is now abandoned and idle. The record is equally barren of testimony with reference to a monopoly or public need in the use of the other lines of the Standard Oil Company and the Union Oil Company from the coast fields in Ventura and Los Angeles counties. We accordingly find that the nature and extent of the business of transporting crude oil, petroleum or the products thereof through the lines of the Standard Oil Company, Associated Oil Company and Union Oil Company from the coast fields in Santa Barbara, Ventura and Los Angeles counties are not such that the public needs a use in the same, and the same are not a matter of public consequence. This finding is, of course, made solely upon the record in this proceeding.

The Salt Lake Oil Company of California operates a line 10½ miles in length from the Salt Lake fields into the city of Los Angeles, and the Amalgamated Oil Company operates a line approximately 6½ miles in length entirely within the city of Los Angeles. There is no evidence of the existence of a monopoly or public need in the use of the lines of these two companies. It may be that the lines are so short that monopoly of the business in that territory is impossible, and that there are other efficient means of transporting the oil. We find on the record in this case that the lines of these companies come within the exception in section 5 of chapter 327 of the laws of 1913.

The Bard Oil and Asphalt Company operates a line approximately 8½ miles in length from the Ojai Valley in Ventura County to the tracks

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of the Southern Pacific Company in the city of Santa Paula. This line serves a territory in which there are no other producing wells except those of this company and the Ojai Oil Company. The oil of the latter company is now being carried through this pipe line. There is no monopoly nor public interest in the oil transportation business conducted by this line, and we accordingly find that the Bard Oil and Asphalt Company also comes within the exception in section 5 of chapter 327 of the laws of 1913.

We have now considered all of the companies which are parties to this proceeding except the Pinal-Dome Oil Company, Columbia Oil Producing Company, Murphy Oil Company and Central Oil Company of Los Angeles. The lines of these companies are only a few miles in length and are used only to transport oil produced by the company which owns and operates the line. These companies clearly come within the exception of section 5 of chapter 327 of the laws of 1913.

We submit herewith the following form of order:

ORDER.

This proceeding having come on regularly for hearing and the Commission being duly advised in the premises, the Commission finds as a fact every statement of fact and finding of fact in the foregoing opinion;

The Commission further finds as a fact that Standard Oil Company, Associated Oil Company, Producers Transportation Company, Associated Pipe Line Company and General Pipe Line Company of California are common carriers and public utilities subject to the provisions of the Public Utilities Act of this state in the transportation of crude oil, petroleum or the products thereof, by means of pipe lines from the San Joaquin Valley oil fields.

It is hereby ordered that Associated Oil Company, Producers Transportation Company, Associated Pipe Line Company and General Pipe Line Company of California file with this Commission schedules of their rates and charges for the transportation of crude oil, petroleum or the products thereof by means of pipe lines from the San Joaquin Valley oil fields in the State of California, and their rules and regulations in connection with such transportation.

As Standard Oil Company has already filed with this Commission its schedules of rates and charges and its rules and regulations for the transportation of crude oil, petroleum and the products thereof by means of pipe lines from the San Joaquin Valley oil fields, it is not necessary to include that company in the order herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1914.

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DECISION NO. 2043.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF THREE PROMISSORY NOTES.

Application No. 1467.

Decided December 31, 1914.

Applicant authorized to issue, for a period of twelve months, three promissory notes aggregating the sum of $55,000.00, said notes to be in renewal of notes of a like face value now overdue.

A. H. Sweet, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for an order authorizing the issue of three promissory notes in renewal of three promissory notes in the same amounts, respectively, now outstanding.

A public hearing was held in San Diego on December 28, 1914. The evidence shows that the notes now outstanding are in the amounts of $15,000.00, $15,000.00 and $25,000.00, respectively; that they are all payable to the order of H. M. Byllesby & Company; that the proceeds were used for capital expenditures; and that each note is overdue. The new notes are to be in the same amounts and payable to the same payee and are to run for terms not to exceed twelve months from the date of issue, and to bear interest at the rate of 7 per cent per annum.

The holders have called upon applicant to issue the notes which are the subject-matter of this application, in lieu of the notes now overdue.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having filed its petition for an order authorizing the issue of the promissory notes hereinafter referred to, and a public hearing having been held, and the Railroad Commission finding that the purposes for which said notes are to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Diego Consolidated Gas and Electric Company be and the same is hereby authorized to issue three promissory notes, two in the amount of $15,000.00 each and one in the amount of $25,000.00, each note to be payable to the order of H. M. Byllesby & Company, to bear interest not to exceed 7 per cent per annum and to be payable during a term not to exceed twelve (12) months from the date thereof, on the following conditions and not otherwise, to wit:

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1. Said notes shall be issued at not less than their face value.

2. Said notes shall be issued only for the purpose of taking up promissory notes in the same amounts payable to the order of H. M. Byllesby & Company, now issued, outstanding and overdue.

3. Within ten days after their issue, San Diego Consolidated Gas and Electric Company shall report to the Railroad Commission the fact of the issue of the promissory notes hereby authorized to be issued, together with the terms and conditions of the issue.

4. This order shall not become effective until San Diego Consolidated Gas and Electric Company has paid the fee specified in section 57, as amended, of the Public Utilities Act.

5. This order shall apply only to promissory notes issued prior to April 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1914.

DECISION NO. 2044.

H. P. AND S. O. THOMPSON

vs.

CITY OF SAN DIEGO.

Case No. 697.

Decided December 31, 1914.

Complainants allege that there is a contract in effect which obligates defendant, operating a water utility, to serve them with water at the regular rates for such service, and it appearing that such contract merely permits complainants to take water from the main of defendant at the regular rates in exchange for a right of way across their property and does not oblige defendant to serve water at any section of complainants' property, defendant can not be blamed for lack of pressure owing to light rainfalls, complaint accordingly dismissed.

Edgar I. Kendall, for Complainants.

T. B. Cosgrove, city attorney, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an action to compel the city of San Diego to furnish to complainants a more adequate supply of water. The Southern California Mountain Water Company was originally joined as party defendant, but the action was dismissed as to this company for the reason that it is not concerned in the controversy.

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The complaint alleges, in effect, that on June 15, 1905, Southern California Mountain Water Company entered into a contract with Mary N. Smith of Encanto, San Diego County, whereby the company, in return for a right of way for its main pipe line over a ten-acre tract known as Lot 6, Encanto, owned by Mary N. Smith, granted to the latter certain rights to water for this lot, as will appear in greater detail hereafter; that the complainants are the successors of Mary N. Smith and that the city of San Diego is the successor of Southern California Mountain Water Company; that complainants have not had the use of water as provided in said contract; and that complainants have suffered damage by reason thereof. A copy of the contract is attached to the complaint. The answer denies that the city of San Diego has failed to fulfill any obligation under said contract.

A public hearing was held in San Diego on December 28, 1914.

The evidence shows that complainants are the owners of ten-acre Lot No. 6 in Encanto; that some five acres of this tract are planted to lemon and deciduous trees; that during ten weeks in 1913 and between June 18, 1914, and the recent December rains it was impossible to secure water on this tract through the pipes therein; and that such water as was used on the tract during these periods was carried by buckets from a tap at a lower elevation.

The cause of the shortage of water was the operation of the booster pump at the Chollas station of the city of San Diego and the decrease in the head of water in the Lower Otay reservoir, from which the water to supply complainants and the city of San Diego is secured. The condition at the Lower Otay reservoir is the result of light rains during the last few seasons and the operation of the booster pump has been a necessity, in order to force into the city of San Diego sufficient water for the use of the city and its inhabitants.

In the contract of June 15, 1905, it was provided in part that "the owner of said real estate over which the right of way is granted, shall at all times have the right to take water from said line at the same rate and subject to the conditions, rules and regulations as those fixed and made applicable from time to time to other consumers obtaining supplies of water from said pipe line, the connection to be made at point on said land designated by the party of the first part, and shall have a tap made free of charge."

This provision measures the extent of the right of complainants herein. The owner of the real estate is to have the right *to take water from said line* at the regular rates and subject to the usual rules and regulations. Water has at all times been flowing in this line, but by the operation of the causes hereinbefore designated the pressure has been so reduced that the water no longer flowed through the pipe line of the complainants up to their land. The evidence clearly shows that by the installation

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of a small booster pump at the tap of complainants they could easily pump all the water they used up to a tank or reservoir on their property and thence irrigate their orchard. The complete cost of such installation would not exceed $350.00.

I find that the city of San Diego is in no way at fault in this matter. The right given to the owners of this tract under the contract is "to take water" from the main pipe line. That right may still be fully exercised. The water company did not obligate itself to deliver water at the different points on this tract, but only to permit the owners of the tract to take water from the main pipe line. This right still belongs to the complainants and may be effectively exercised by the installation and operation of the booster pump hereinbefore referred to. While it is unfortunate that the changed conditions will make this additional investment necessary, the loss must lie where it falls, and this Commission has no right to shift the burden from the complainants to the city of San Diego.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the case having been submitted and being ready for decision,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of December, 1914.

DECISION NO. 2044½.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AUTHORITY TO ISSUE BONDS AND NOTES.

Application No. 629.

Decided December 31, 1914.

Applicant permitted to issue $150,000.00 of its bonds, this amount being the remainder of an authorization previously applied for, said bonds being subject to all conditions incorporated in the original order.

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REPORT OF THE COMMISSION.

ESHLEMAN, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

San Joaquin Light and Power Corporation having been authorized by this Commission, in Decision No. 790 in the above entitled matter, on July 12, 1913, to issue $1,776,000.00 of its series B first and refunding mortgage forty-year 5 per cent bonds, either as collateral security or for direct sale under conditions therein specified;

And said order having provided that the applicant might thereupon issue $1,626,000.00 of said bonds, and said order having provided that applicant should issue the remaining $150,000.00 of said bonds only after it should have received from this Commission a supplemental order finding that its net earnings applicable to bond interest for a period of one year, sixty days prior to its application for bonds, had been twice the amount of such interest upon its outstanding bonds and the bonds proposed to be issued;

And the applicant having filed a statement showing for the twelve months ending September 30, 1914:

Gross earnings		$1,840,162 71
Operation and maintenance		398,975 42
Net plant earnings		1,441,187 29
General administrative		251,187 71
Net earnings from operation		$1,189,999 58
Sundry earnings—interest receivable	$4,897 07	
Miscellaneous	9,968 40	
		14,865 47
Net income		$1,204,865 05
Accrued taxes and insurance	$91,604 09	
Bad debt and sundries	4,752 50	
		96,356 59
Balance available for charges		$1,108,508 46
Interest on outstanding bonds	$460,310 00	
Twice such bond interest		920,620 00
Balance		$187,888 46

And it appearing, therefore, that the net earnings applicable to bond interest are more than twice the interest on the outstanding bonds plus the interest on the bonds herein proposed to be issued,

It is hereby ordered that San Joaquin Light and Power Corporation be granted authority and it is hereby granted authority to issue $150,000.00 of its series B first and refunding mortgage forty-year 5 per cent bonds under its mortgage and deed of trust to the Trust Company

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of America, a copy of which is on file with this Commission in connection with Application No. 278 to which reference is hereby made, said bonds being due and payable August 1, 1950.

(1) The authority herein granted is subject to all of the conditions, not in conflict with the order herein, enumerated in this Commission's order in Decision No. 790.

(2) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

(3) The authority herein granted shall apply to such bonds as shall have been issued on or before June 30, 1915.

It is further ordered that the time limit placed upon the issue of the bonds and notes authorized in this Commission's order made in the above entitled proceeding on July 12, 1913, which time limit was, by an order of this Commission on July 9, 1914, extended from July 1, 1914, to and including December 31, 1914, be and it is hereby extended from December 31, 1914, to June 30, 1915.

The foregoing second supplemental order is hereby approved and ordered filed as the second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of December, 1914.

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GRADE CROSSINGS.

Decision No.	Application No.	Applicant	Location	Action	Date
1611	1214	Southern Pacific Co.	Cordelia	Granted	July 1, 1914
1612	1209	A. T. & S. F. Ry.	San Francisco	Granted	July 2, 1914
1613	1201	Southern Pacific Co.	San Francisco	Granted	July 2, 1914
1614	1205	Southern Pacific Co.	Salinas	Granted	July 2, 1914
1652	1216	Southern Pacific Co.	Pomona	Granted	July 6, 1914
1653	1215	No. Western Pacific R. R.	Pt. Reyes	Granted	July 6, 1914
1658	1227	Pacific Electric Ry. Co.	Long Beach	Granted	July 14, 1914
1659	1228	Southern Pacific Co.	Redwood City	Granted	July 16, 1914
1670	1229	Southern Pacific Co.	Vineland	Granted	July 16, 1914
1671	1235	A. T. & S. F. Ry.	Antioch	Granted	July 16, 1914
1672	1237	City of Los Angeles	Los Angeles	Granted	July 16, 1914
1679	1242	A. T. & S. F. Ry.	San Francisco	Granted	July 23, 1914
1680	1245	Southern Pacific Co.	Monrovia	Granted	July 23, 1914
1681	1241	A. T. & S. F. Ry.	Orange County.	Granted	July 24, 1914
1687	1254	Southern Pacific Co.	Vernon	Granted	July 28, 1914
1692	973	San Bernardino County	Hicks	Granted	July 29, 1914
1693	1138	Visalia Electric Ry. Co.	Lindcove	Granted	July 29, 1914
1694	1255	Southern Pacific Co.	Sanger	Granted	July 29, 1914
1695	1256	A. T. & S. F. Ry.	Del Rey	Granted	July 29, 1914
1707	1087	County of Los Angeles	Los Angeles Co.	Granted	Aug. 4, 1914
1708	1193	S. P., L. A. & S. L. R. R. Co.	Vernon	Granted	Aug. 4, 1914
1718	892	City of Vallejo	Vallejo	Granted	Aug. 7, 1914
1720	1266	Southern Pacific Co.	Calexico	Granted	Aug. 11, 1914
1722	1270	A. T. & S. F. Ry.	Vernon	Granted	Aug. 12, 1914
1725	1263	Southern Pacific Co.	San Fernando	Granted	Aug. 12, 1914
1726	1272	Redlands	Redlands	Granted	Aug. 12, 1914
1778	1267	Southern Pacific Co.	Fresno	Granted	Aug. 13, 1914
1729	1261	Southern Pacific Co.	Sisson	Granted	Aug. 13, 1914
1731	1275	Northern Electric Ry. Co.	Chico	Granted	Aug. 14, 1914
1732	1271	Southern Pacific Co.	Moorpark	Granted	Aug. 14, 1914
1733	1262	County of Los Angeles	Bassett	Granted	Aug. 14, 1914
1740	1278	Southern Pacific Co.	San Luis Obispo	Granted	Aug. 18, 1914
1741	1286	Southern Pacific Co.	Redwood City	Granted	Aug. 19, 1914
1746	1292	S. P., L. A. & S. L. R. R. Co.	Pomona	Granted	Aug. 24, 1914
1761	1161	Stanislaus County	Denair	Dismissed	Aug. 29, 1914
1765	1300	A. T. & S. F. Ry. Co.	Christie	Granted	Sept. 1, 1914
1766	1301	Pacific Electric Ry. Co.	Garden Grove	Granted	Sept. 1, 1914
1767	1302	A. T. & S. F. Ry. Co.	Contra Costa	Granted	Sept. 1, 1914
1776	1293	Sacto. & Eastern Ry. Co.	Sacramento	Granted	Sept. 3, 1914
1787	1297	Southern Pacific Co.	Merced	Granted	Sept. 8, 1914
1788	1298	Southern Pacific Co.	El Centro	Granted	Sept. 8, 1914
1791	1181	A. T. & S. F. Ry. Co.	Tulare	Granted	Sept. 11, 1914
1794	1313	Southern Pacific Co.	Roseville	Granted	Sept. 14, 1914
1833	1333	A. T. & S. F. Ry. Co.	Upland	Granted	Sept. 29, 1914
1834	1311	Stockton Electric Ry. Co.	Stockton	Granted	Sept. 29, 1914
1814	1328	Southern Pacific Co.	Venice Hill	Granted	Oct. 6, 1914
1845	1345	Pacific Electric Ry. Co.	Los Angeles	Granted	Oct. 6, 1914
1846	968	Northern Elec. Ry. Co.	Sacramento	Dismissed	Oct. 6, 1914
1847	1313	Central Calif. Tract. Co.	Sacramento	Granted	Oct. 6, 1914
1864	1356	A. T. & S. F. Ry. Co.	San Diego	Granted	Oct. 10, 1914
1865	1353	Southern Pacific Co.	Sanger	Granted	Oct. 10, 1914
1870	1357	A. T. & S. F. Ry. Co.	Redlands	Granted	Oct. 14, 1914
1871	1322	County of Sacramento	Sacramento	Dismissed	Oct. 14, 1914
1872	1329	Visalia Electric Ry. Co.	Tulare County.	Granted	Oct. 14, 1914
1873	1324	County of Tulare	Lindsay	Granted	Oct. 14, 1914
1875	592	Southern Pacific Co.	Torrance	Revoked	Oct. 14, 1914
1880	1367	A. T. & S. F. Ry. Co.	Los Angeles	Granted	Oct. 15, 1914
1881	849	South San Francisco	S. San Francisco	Granted	Oct. 15, 1914
1883	1369	Pacific Elec. Ry. Co.	Compton	Granted	Oct. 16, 1914
1884	1064	Fresno County	Caruthers	Granted	Oct. 16, 1914
1905	1385	Verdi Lumber Company	Sierra County	Granted	Oct. 26, 1914
1906	1376	Los Angeles County	Culver City	Granted	Oct. 27, 1914

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1980	1381	Pacific Electric Ry. Co.	Pomona	Granted	Oct. 30, 1914
1909	1382	Oakland, Antioch & East.	Sacramento	Granted	Oct. 30, 1914
1942	1365	Tidewater & So. Ry. Co.	Stockton	Granted	Nov. 5, 1914
1943	1395	A. T. & S. F. Ry. Co.	Pittsburg	Granted	Nov. 5, 1914
1940	1397	S. D. & So. E. Ry. Co.	Grossmont	Granted	Nov. 16, 1914
1941	1399	Pacific Electric Ry. Co.	Highland	Granted	Nov. 16, 1914
1945	1396	Riverside County	Perris	Granted	Nov. 18, 1914
1946	1368	Pacific Electric Ry. Co.	Riverside	Granted	Nov. 18, 1914
1947	1404	Pacific Electric Ry. Co.	Los Angeles Co.	Granted	Nov. 18, 1914
1948	1411	Orland	Orland	Granted	Nov. 18, 1914
1952	1419	Pacific Electric Ry. Co.	Claremont	Granted	Nov. 23, 1914
1953	1421	Southern Pacific Co.	Los Angeles	Granted	Nov. 23, 1914
1975	1431	Pacific Electric Ry.	San Bernardino	Granted	Nov. 30, 1914
1996	1446	A. T. & S. F. Ry. Co.	Claremont	Granted	Dec. 12, 1914.
2012	1455	A. T. & S. F. Ry. Co.	San Diego	Granted	Dec. 18, 1914
2014	1462	A. T. & S. F. Ry. Co.	San Diego	Granted	Dec. 21, 1914
2015	1464	Southern Pacific Co.	San Francisco	Granted	Dec. 21, 1914

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